



TEXAS DEPARTMENT OF CRIMINAL JUSTICE
VICTIM SERVICES DIVISION

**CRIME
VICTIM
ASSISTANCE
STANDARDS**

Crime Victim Assistance Standards

The Texas Department of Criminal Justice Victim Services Division Texas Crime Victim Clearinghouse develops and distributes the Crime Victim Assistance Standards, in accordance with the Texas Code of Criminal Procedure Article 56A.604, to law enforcement officers and attorneys representing the state to aid those officers and prosecutors in performing their duties imposed by the Texas Code of Criminal Procedure Chapters 56A - Rights of Crime Victims, 56B - Crime Victims' Compensation, and 58 - Confidentiality of Identifying Information and Medical Records of Certain Crime Victims.

Corresponding codes from other chapters throughout the Texas Code of Criminal Procedure and the Texas Government Code have been added as supplemental information for criminal justice professionals regarding their duties and responsibilities toward victims of crime.

The standards listed throughout this document are based on legislative mandates imposed by the Texas Code of Criminal Procedure and are current through the Regular Session of the 87th Legislature. To view the exact language of these statutes, please visit the Texas Constitution and Statutes website at www.statutes.capitol.texas.gov.

The Texas Code of Criminal Procedure Chapter 56 was extensively revised and reorganized by House Bill (HB) 4173 during the 86th Legislature, those revisions became effective January 1, 2021. The Crime Victim Assistance Standards have been updated to reflect those revisions and the revisions made by HB 3607, which incorporated the remainder of Texas Code of Criminal Procedure Chapter 56 into Chapter 56A, as well as additional legislation passed during the 87th Legislative Session. These revisions became effective September 1, 2021.

This document will be updated again in 2023, at the conclusion of the 88th Legislature to accommodate code modifications for Chapters 56A, 56B, and 58.

The standards are provided in six sections:

- constitutional rights of victims;
- law enforcement agency/officers;
- crime victim liaisons within law enforcement agencies;
- attorneys representing the State of Texas;
- victim assistance coordinators within district or county attorneys' offices; and
- Texas district and county criminal courts.

If you have any questions regarding these standards, please contact the TDCJ VSD TxCVC staff at 512-406-5931 or tdcj.clearinghouse@tdcj.texas.gov.

Contents

2	Statutory Definitions of Victims
2	Constitutional Rights of Victims
3	Law Enforcement Agency/Officers
8	Crime Victim Liaisons within Law Enforcement Agencies
9	Attorneys Representing the State of Texas
14	Victim Assistance Coordinators within District or County Attorneys' Offices
15	Texas District and County Criminal Courts

Statutory Definitions of Victims

Victim is the person who is the victim of the offense of sexual assault,¹ kidnapping, aggravated robbery, trafficking of persons, injury to a child, elderly individual, or disabled individual, or who has suffered personal injury or death as a result of the criminal conduct of another (art. 56A.001(7)).

Close relative of a deceased victim is a person who was the spouse of a deceased victim at the time of the victim's death or who is a parent or adult brother, sister, or child of a deceased victim (art. 56A.001(3)).

Guardian of a victim is a person who is the legal guardian of the victim, regardless of whether the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim (art. 56A.001(5)).

Throughout this document, these defined persons are referred to as victim.

Constitutional Rights of Victims

Victims of crime have the following rights to:

- be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process; and
- be reasonably protected from the accused throughout the criminal justice process (Tex. Const. art. 1, § 30(a)).

On the request of the crime victim, victims have the rights to:

- notification of court proceedings;
- be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;
- confer with a representative of the prosecutor's office;
- restitution; and
- information about the conviction, sentence, imprisonment, and release of the accused (Tex. Const. art. 1, § 30(b)).

The legislature may enact laws to define the term victim and to enforce these and other rights of crime victims. The state, through its prosecuting attorney, has the right to enforce the rights of crime victims. The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge (Tex. Const. art. 1, § 30(c)-(e)).

¹ A complete description of these offenses can be found under Penal Code §§ 21.02, 21.11(a)(1), 22.011, 22.021 (art. 56A.001(6)).

Law Enforcement Agencies/Officers

Duty to Ensure Victims are Afforded Their Rights

Law enforcement agencies, sheriffs, and police have the duty to ensure to the extent practicable that victims are afforded the rights granted to them under the general rights of crime victims (Chapter 56A, Subchapter B), and, upon request, an explanation of those rights (art. 56A.051(c)).

Duty to Designate a Crime Victim Liaison

Each local law enforcement agency has the duty to designate one person to serve as the agency's crime victim liaison (art. 56A.203). Agencies shall consult with the victim assistance coordinator in the office of the attorney representing the state to determine the most effective manner in which the crime victim liaison can perform the duties imposed under this article and, if applicable, Article 56A.205 (art. 56A.204(b)).

Duty to Provide Protection

Law enforcement agencies have the duty to provide a victim adequate protection from harm and threats of harm arising from cooperation with prosecution efforts (art. 56A.051(a)(1)).

Duty to Inform Victims

Peace officers have the duty to inform a victim, when requested, of the defendant's right to bail and the procedures in criminal investigations (art. 56A.051(a)(4)(A)).

Law enforcement agencies, sheriffs, and police have the duty to provide victims information regarding the Crime Victims' Compensation Program, under Chapter 56B, including information related to the costs that may be compensated, the amount of compensation, eligibility for compensation, and the application process for compensation, as well as the payment for a forensic medical examination under Article 56A.252 for a victim of a sexual assault, and when requested, referral to available social service agencies that may offer additional assistance (art. 56A.051(a)(6)).

- Each local law enforcement agency has the duty to inform a claimant or victim of criminally injurious conduct of the provisions of Chapter 56B and make a Crime Victims' Compensation Application form available (art. 56B.007(a)).^{2, 3}

Law enforcement agencies, sheriffs, and police have the duty to inform victims of the uses of a Victim Impact Statement, the statement's purpose in the criminal justice system as described by Chapter 56A, Subchapter D, and the right to complete the Victim Impact Statement and have it considered by the attorney representing the state, the judge before sentencing or before a plea bargain agreement is accepted, and by the Board of Pardons and Paroles before an inmate is released on parole (art. 56A.051(a)(12)).

Duty to Provide Victims Written Notice

At the initial contact or at the earliest possible time after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency has the duty to provide the victim a written notice containing:

- information about the availability of emergency and medical services, if applicable (art. 56A.401(1));
- information about the rights of crime victims under Chapter 56A, Subchapter B (art. 56A.401(2));
- the victim's right to receive information regarding the Crime Victims' Compensation Program under Chapter 56B, including information about:
 - the costs that may be compensated under Chapter 56B, the amount of compensation, eligibility for compensation, and the application process for compensation (art. 56A.401(3)(A));
 - the payment for a medical examination for a victim of a sexual assault under Article 56A.252 (art. 56A.401(3)(B)); and

² The Attorney General shall provide application forms and all other documents that local law enforcement agencies may require to comply with art. 56B.007. The attorney general shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the attorney general a description of the procedures adopted by each agency to comply (art. 56B.007(b)).

³ The Attorney General may not deny or reduce an award under Subsection (a)(1) based on the interactions of the claimant or victim with a law enforcement agency at the crime scene or hospital unless the attorney general finds that the claimant or victim, subsequent to the claimant's or victim's interactions at the crime scene or hospital, failed or refused to substantially cooperate with the law enforcement agency (art. 56B.107(c)).

Law Enforcement Agencies/Officers

- referral to available social service agencies that may offer additional assistance (art. 56A.401(3)(C));
- the name, address, and phone number of the law enforcement agency's crime victim liaison (art. 56A.401(4));
- the address, phone number, and name of the crime victim assistance coordinator of the office of the attorney representing the state (art. 56A.401(5)); and
- the following statement: "You may call the law enforcement agency's telephone number for the status of the case and information about victims' rights" (art. 56A.401(6)).

At the time a law enforcement agency provides the above notices, the agency shall provide, if the agency possesses the relevant information, a referral to a sexual assault program as defined by Government Code § 420.003(7) and a written description of the services provided by that program (art. 56A.402(a)).⁴

Duty to Notify Victims

As soon as practicable but not later than the next business day after the date the sheriff receives the information regarding conditions of bond per Article 17.50(b), the sheriff has a duty to make a good faith effort to notify by telephone the victim of the offense and any other named person the conditions of bond are intended to protect that the defendant has been released on bond (art. 17.50(d)(1)(B)).

If the sheriff has custody of the defendant, it is the duty of the sheriff to make a reasonable attempt to notify the victim of the offense or a witness who testified (not in the course of official or professional duties) against the defendant at the trial for the offense not later than 30 days before the defendant completes the sentence and is released, or immediately if the defendant escapes from a correctional facility (arts. 56A.503(a)(1)-(2), 56A.507(1)). This notification may be made by using the victim's email or last known mailing address (art. 56A.507(2)). This notice applies to an offense:

- that is punishable as a felony (art. 56A.502(1));
- described by Government Code § 508.187(a) other than an offense described by Subdivision (1) (art. 56A.502(2)); or
- involving family violence, stalking, or violation of a protective order or magistrate's order (art. 56A.502(3)).

Duty to Report

For conditions of bond, as soon as practicable, but not later than the next business day after the date the sheriff receives the information regarding conditions of bond per Article 17.50(b), the sheriff has a duty to enter the information into the Texas Crime Information Center (TCIC) database (art. 17.50(d)(1)(A)).⁵

For protective orders, law enforcement also have a duty to enter original and modified protective orders into the TCIC database, immediately on receipt of the order from the clerk's office, but no later than the 10th day after receipt (art. 7B.104).

Duty to Protect Confidentiality

The sheriff has a duty to protect privileged and confidential victim information obtained by the the sheriff to provide notice to the victim (art. 56A.506).

Duty to Keep Victim Pseudonym Form Information Confidential

If a victim of family violence (Subchapter E) completes the pseudonym form and returns the form to a law enforcement agency, the law enforcement agency receiving the pseudonym form has a duty to:

- remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession (art. 58.203(c)(1));
- notify the attorney representing the state of the pseudonym and that the victim has elected to be designated by the pseudonym (art. 58.203(c)(2)); and
- maintain the form in a manner that protects the confidentiality of the information contained on the form (art. 58.203(c)(3)).

⁴ A sexual assault program may provide a written description of its services to a law enforcement agency (art. 56A.402(b)).

⁵ Article 17.50(d)(1)(A) becomes effective 1/1/2022.

Law Enforcement Agencies/Officers

A victim who completes a pseudonym form and returns the form to the law enforcement agency investigating the offense may not be required to disclose his or her name, address, or telephone number in connection with the investigation or prosecution of the offense (art. 58.203(a)).

Duty to Return Property

Law enforcement agencies have the duty to promptly return any property of the victim that is held by the law enforcement agency as evidence when the property is no longer required for that purpose (art. 56A.051(a)(9)).

Additional Duties Related to the Offenses of Sexual Assault, Indecent Assault, Stalking, and Trafficking

Duty to Offer a Sexual Assault Advocate or Victim Representative be Present During Law Enforcement Interview

Before conducting an investigative interview with a victim reporting a sexual assault, other than a victim who is a minor as defined by Family Code §101.003, the peace officer conducting the interview shall offer the victim the opportunity to have an advocate from a sexual assault program, as defined by Government Code §420.003, be present with the victim during the interview, if the advocate is available at the time of the interview. If an advocate is not available, the peace officer shall offer the victim the opportunity to have a crime victim liaison from the law enforcement agency, a peace officer who has completed a sexual assault training program described by Government Code §420.011(b), or a victim's assistance counselor from a state or local agency or other entity be present with the victim during the interview (art. 56A.3515(a)-(b)).

Prohibited Use of Polygraph on Victims of Sex Offenses

A peace officer may not require, request, or take a polygraph examination of a person who charges or seeks to charge in a complaint the commission of continuous sexual abuse of a child(ren), indecency with a child, sexual assault, aggravated sexual assault, or prohibited sexual conduct⁶ (art. 15.051(a)).

Duty Regarding HIV Testing and Counseling

For sexual assault offenses, and on request, law enforcement agencies have the duty to ensure to the extent practicable that a victim receives testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, and counseling regarding AIDS and HIV infection (art. 56A.052(a)(3)-(4)(A)).

Duty Regarding Forensic Medical Examination for Sexual Assault Victim Who Has Reported Assault to Law Enforcement

If a sexual assault victim reports the assault to a law enforcement agency within 120 hours of the assault, the law enforcement agency, with the consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, has the duty to request a forensic medical examination of the victim of the reported assault for use in the investigation or prosecution of the offense (art. 56A.052(a)(4)(B), 56A.251(a)).

If a sexual assault is not reported within 120 hours, and the victim is a minor as defined by Family Code § 101.003, on receiving the consent described above or by §§ 32.003 or 32.005 of the Family Code, a law enforcement agency shall request a forensic medical examination of the victim for use in the investigation or prosecution of the offense (art. 56A.251(b)).

If beyond the 120 hours, and the victim is not a minor, on receiving the consent a law enforcement agency may request a forensic medical examination if based on the circumstances of the reported assault, the agency believes a forensic medical examination would further that investigation or prosecution, or after a medical evaluation by a physician, sexual assault examiner, or sexual assault nurse examiner the physician or examiner notifies the agency that a forensic medical examination should be conducted (art. 56A.251(c)).

The law enforcement agency has the duty to document whether the agency requested a forensic medical examination, provide that documentation to the victim, or the person who consented to the examination on behalf of the victim, and the health care provider

⁶ A complete description of these offenses can be found under Penal Code §§ 21.02, 21.11, 22.011, 22.021, 25.02 (art. 15.051(a)).

Law Enforcement Agencies/Officers

and physician, sexual assault examiner, or sexual assault nurse examiner who provides services related to the sexual assault to the victim and maintain the documentation in accordance with the agency's record retention policies (art. 56A.251(d)).⁷

Prohibited Use of Evidence from Forensic Examination

Evidence collected during a sexual assault forensic medical examination may not be used to investigate or prosecute a misdemeanor offense, or an offense under Health and Safety Code Chapter 481, Subchapter D, alleged to have been committed by the victim from whom the evidence was collected (art. 38.435).

Duty to Protect Confidentiality

A communication or record is confidential for purposes of Government Code § 552.101 if the communication or record contains identifying or personal information regarding a victim who receives a forensic medical examination and is created by, provided to, or in the control or possession of the department (art. 56A.308).

Duty to Disclosure of Evidence

Law enforcement agencies, sheriffs, and police have a duty to provide a victim, if requested, with a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim shall be informed of the estimated date on which that information is expected to be disclosed (art. 56A.052(a)(1)(A)).

Law enforcement agencies have a duty to provide a victim, if requested, a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense (art. 56A.052(a)(1)(B)).

Duty to Notify Victims

Law enforcement agencies, sheriffs, and police have a duty to notify a victim, or a designated person,⁸ if requested:

- at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense (art. 56A.052(a)(2)(A));
- at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database (art. 56A.052(a)(2)(B)); and
- of the results of the comparison of biological evidence, unless disclosing the results would interfere with the investigation or prosecution of the offense, in which event the victim shall be informed of the estimated date on which those results are expected to be disclosed (art. 56A.052(a)(2)(C)).

Duty to Develop Procedures

The Department of Public Safety has the duty to develop procedures for the transfer of evidence collected during a forensic medical exam to a crime laboratory or other suitable location designated by the public safety director of the department, the preservation of the evidence by the receiving entity, and the notification of the victim of the offense before planned destruction of evidence (art. 56A.306(a)).

The receiving entity may destroy the evidence on the fifth anniversary of the date on which the evidence was collected or the date on which written consent to release the evidence is obtained per Government Code § 420.0735 (art. 56A.306(b)), only if the entity provides:

- written notification to the victim of the offense in a trauma-informed manner (art. 56A.306(c)(1));

⁷ Law enforcement agencies who request a forensic medical examination no longer have a responsibility to pay all costs of that examination, per HB 2462 and HB 2706 of the 87th Legislative Session. On application to the Attorney General, a health care provider that provides a forensic medical examination to a sexual assault survivor in accordance with Chapter 56A, Subchapter F, or the sexual assault examiner or sexual assault nurse examiner who conducts that examination is entitled to be reimbursed in an amount set by the Attorney General (art. 56A.252).

⁸ A victim may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under Subsection (a)(2) (art. 56A.052(c)).

Law Enforcement Agencies/Officers

- detailed instructions on how the victim may make a written objection to the decision, including contact information for the entity (art. 56A.306(c)(1)(A)); or
- a standard form for the victim to complete and return to the entity to make a written objection to the decision (art. 56A.306(c)(1)(B)); and
- a written objection is not received by the entity from the victim before the 91st day after the date on which the entity notifies the victim of the planned destruction of the evidence (art. 56A.306(c)(2)).

The entity shall document its attempt to notify the victim (art. 56A.306(d)).

The Department of Public Safety may develop procedures regarding the submission or collection of additional evidence of a sexual assault other than through a forensic medical examination as described by Article 56A.303(a) (art. 56A.307).

Duty to Adopt Rules

The Department of Public Safety and the Attorney General has the duty to adopt rules as necessary to implement the directives regarding sexual assault forensic medical exams under Chapter 56A, Subchapter F (art. 56A.309).

Duty to Pay Cost for Expert Testimony

For a sexual assault victim who has reported the assault, a law enforcement agency may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the forensic medical examination or manner in which it was performed (art. 56A.253).

Duty to Inform Victims of Certain Offenses Regarding Protective Orders

For sexual assault/abuse offenses, indecency offenses (assault and with a child), trafficking, stalking, and compelling prostitution,⁹ law enforcement agencies have the duty to inform the victim, or guardian of the

victim, if the victim is younger than 18 years of age or an adult ward, of the right to apply for a protective order under art. 7B.001, of the court in which the application for a protective order may be filed, and that, on request of the victim, the attorney representing the state may file the application for a protective order on behalf of the victim (art. 56A.052(d)(1)(A)-(C)).

Duty to Keep Victim Pseudonym Form Information Confidential

If a victim of a sex offense (Subchapter C), stalking (Subchapter D), or trafficking (Subchapter F) completes the pseudonym form and returns the form to a law enforcement agency, the law enforcement agency receiving the pseudonym form have a duty to:¹⁰

- remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession (arts. 58.103(c)(1), 58.153(c)(1), 58.253(c)(1));
- notify the attorney representing the state of the pseudonym and that the victim has elected to be designated by the pseudonym (arts. 58.103(c)(2), 58.153(c)(2), 58.253(c)(2)); and
- maintain the form in a manner that protects the confidentiality of the information contained on the form (arts. 58.103(c)(3), 58.153(c)(4), 58.253(c)(3)).

A victim who completes a pseudonym form and returns the form to the law enforcement agency investigating the offense may not be required to disclose his or her name, address, or telephone number in connection with the investigation or prosecution of the offense (arts. 58.103(a), 58.153(a), 58.253(a)).

For stalking victims, the receiving law enforcement agency also has a duty to provide the victim a copy of the completed pseudonym form showing that the form was returned to the law enforcement agency (art. 58.153(c)(3)).

⁹ A complete description of these offenses can be found under Penal Code §§ 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012, 22.021, 42.072, 43.05 (art. 56A.052(d)).

¹⁰ The Sexual Assault Prevention and Crisis Services Program of the Office of the Attorney General shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim (art. 58.102(b)).

Crime Victim Liaisons within Law Enforcement Agencies

Each law enforcement agency shall designate a person to serve as the agency's crime victim liaison (art. 56A.203). Crime victim liaisons may assist law enforcement agencies in fulfilling the agency's duties related to victims of crime, such as ensuring victims know and understand their rights, explaining general processes in the criminal justice system, helping victims apply for compensation, informing certain victims of their right to apply for a protective order, and discussing the uses of a Victim Impact Statement. Crime victim liaisons have additional duties listed in the Texas Code of Criminal Procedure that are detailed below.

Duty to Ensure Victims are Afforded Their Rights

The crime victim liaison, designated under Article 56A.203, has a duty to ensure that victims are provided the rights granted them by Article 56A.051(a)(4), (6), and (9) (art. 56A.204(a)).

Duty to Inform Victims

Crime victim liaisons have the duty to inform a victim, when requested, of the defendant's right to bail and the procedures in criminal investigations and the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process (arts. 56A.204(a), 56A.051(a)(4)).

Crime victim liaisons have the duty to inform a victim of the right to receive information regarding Crime Victim's Compensation, under Chapter 56B, including information related to the costs that may be compensated, the amount of compensation, eligibility for compensation, and the application process for compensation under that chapter, as well as the payment for a forensic medical examination under Article 56A.252 for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance (arts. 56A.204(a), 56A.051(a)(6)).

Presence During Law Enforcement Interview for Sexual Assault Victims

A crime victim liaison authorized to be present during a sexual assault interview may only provide the victim reporting the sexual assault with counseling and other support services, and information regarding the rights of crime victims. A crime victim liaison authorized to be present during a sexual assault interview may not delay or otherwise impede the interview process (art. 56A.3515(b)-(d)).

Duty to Return Property

Crime victim liaisons have the duty to promptly return any property of the victim that is held by the law enforcement agency as evidence when the property is no longer required for that purpose (arts. 56A.204(a), art. 56A.051(a)(9)).

Duty Regarding Counseling for Certain Jurors

If applicable, and upon approval of a program by the commissioners' court, a crime victim liaison may offer, or provide counseling using a provider that assists local criminal justice agencies, not more than 10 hours of post-investigation or post-trial psychological counseling for persons who serve as a juror in a case involving graphic evidence or testimony and requests the counseling not later than the 180th day after the jury is dismissed (art. 56A.205).

Attorneys Representing the State of Texas

Duty to Ensure Victims Are Afforded Their Rights

The office of the attorney representing the state has the duty to ensure to the extent practicable that victims are afforded the rights allocated to them under the general rights of crime victims found in Chapter 56A of the Texas Code of Criminal Procedure, and, upon request, an explanation of those rights (art. 56A.051(c)).

Duty to Designate a Victim Assistance Coordinator

The district attorney, criminal district attorney, or county attorney who prosecutes criminal cases has the duty to designate a person to serve as a victim assistance coordinator in that jurisdiction (art. 56A.201).

Duty to Inform Victims

Attorneys representing the state of Texas have the duty to inform victims, if requested, of relevant court proceedings, including appellate proceedings, and to be informed if those proceedings have been canceled or rescheduled prior to the event (art. 56A.051(a)(3)(A)).

The office of the attorney representing the state has the duty to inform victims, when requested, about the general procedures in the criminal justice system, including procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process (art. 56A.051(a)(4)(B)).

The office of the attorney representing the state has the duty to provide information to victims regarding the Crime Victims' Compensation Program under Chapter 56B, including information related to the costs that may be compensated, the amount of compensation, eligibility for compensation, and the application process for compensation under that chapter, as well as the payment for a forensic medical examination under Article 56A.252 for a victim of sexual assault, and when requested, referral to an available social services agency that may offer additional assistance (art. 56A.051(a)(6)).

The office of the attorney representing the state has the duty to inform a victim of the uses of a Victim Impact Statement and the statement's purpose in the criminal justice system, of the opportunity to complete a Victim Impact Statement, and the right to have the

Victim Impact Statement considered by the attorney representing the state, the judge before sentencing or before a plea bargain agreement is accepted, and by the Board of Pardons and Paroles before a defendant is released on parole (art. 56A.051(a)(12)).

The office of the attorney representing the state has the duty to inform victims of the right to provide pertinent information to a community supervision and corrections department conducting a pre-sentencing investigation concerning the impact of the offense on the victim and the victim's family by testimony, written statement, or any other manner before any sentencing of the defendant (art. 56A.051(5)).

Duty to Provide Victims Written Notice

Not later than the 10th day after the date that an indictment or information is returned against a defendant for an offense, the attorney representing the state has the duty to give to each victim of the offense a written notice containing:

- the case number and assigned court for the case (art. 56A.451(a)(1));
- a brief general statement of each procedural stage in the processing of a criminal case, including bail, plea bargaining, parole restitution, and appeal (art. 56A.451(a)(2));
 - The brief general statement describing the plea bargaining stage in a criminal trial shall include a statement that the Victim Impact Statement provided by the victim will be considered by the attorney representing the state in entering into the plea bargain agreement and the judge before accepting the plea bargain is required under Article 26.13(e) to ask whether a Victim Impact Statement has been returned to the attorney, for a copy of the statement, if one has been returned, and whether the attorney representing the state has given notice of the existence and terms of the plea bargain agreement to the victim (art. 56A.451(b)).
- suggested steps the victim may take if the victim is subjected to threats or intimidation (art. 56A.451(a)(3));

Attorneys Representing the State of Texas

- the name, address, and phone number of the victim assistance coordinator (art. 56A.451(a)(4));
- notification of the rights and procedures regarding the rights of crime victims under Chapter 56A, the Crime Victims' Compensation Program under Chapter 56B, and the confidentiality of identifying information under Chapter 58 (art. 56A.451(a)(5)(A));
- notification of the right to file a Victim Impact Statement with the office of the attorney representing the state and the Texas Department of Criminal Justice (art. 56A.451(a)(5)(B));
- notification of the right to receive information regarding compensation, including information about:
 - the costs that may be compensated, eligibility for compensation, and the application process for compensation under Chapter 56B (art. 56A.451(a)(5)(C)(i));
 - the payment for a forensic medical examination for a victim of a sexual assault under Article 56A.252 (art. 56A.451(a)(5)(C)(ii));
 - referral to available social service agencies that may offer additional assistance (art. 56A.451(a)(5)(C)(iii)); and
- notification of the right of a victim, as defined by Government Code § 508.117 to appear in person before a member of the Board of Pardons and Paroles, per Government Code § 508.153, (art. 56A.451(a)(5)(D)).

Immediately following the conviction of a defendant described below, the attorney who represented the state in the prosecution of the case has the duty to notify in writing the victim of the offense or a witness who testified (not in the course of official or professional duties) against the defendant at the trial for the offense of the victim's or witness's right to receive notice of the defendant's release, escape, and, if applicable, when the defendant ceases to be electronically monitored under Chapter 56A, Subchapter K (art. 56A.505). This notice applies to an offense:

- that is punishable as a felony (art. 56A.502(1));
- described by Government Code § 508.187(a) other than an offense described by Subdivision (1) (art. 56A.502(2)); or
- involving family violence, stalking, or violation of a protective order or magistrate's order (art. 56A.502(3)).

Duty to Notify Victims

If requested by the victim, the attorney representing the state, as far as reasonably practicable, has the duty to give to the victim notice of any scheduled court proceedings, changes in that schedule, and the filing of a request for continuance of a trial setting (art. 56A.452).

The attorney representing the state, as far as reasonably practicable, has the duty to notify the victim of the existence and terms of any plea bargain agreement to be presented to the court (art. 56A.453).

Duty to Protect the Victim's Privacy

As far as reasonably practicable, the address of the victim may not be a part of the court file except as necessary to identify the place of the offense. The phone number of the victim may not be a part of the court file (art. 56A.101).

Unless absolutely necessary, a victim or witness who is not confined may not be required to attend a deposition in a correctional facility (art. 56A.102).

Duty to Keep Victim Pseudonym Form Information Confidential

An attorney representing the state who receives notice from law enforcement that a victim of family violence (Subchapter E) has elected to be designated by a pseudonym shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense (art. 58.203).

- A court may order the disclosure of a victim's name, address, and telephone number only if the court finds that the information is essential in the trial of the defendant for the offense, or the identity of the victim is in issue (art. 58.203).

Attorneys Representing the State of Texas

Duty to Provide

The office of the attorney representing the state has the duty to provide to a victim a waiting area, separate or secure from other witnesses, including the defendant and relatives of the defendant, before testifying in any proceeding concerning the defendant; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the defendant, the defendant's relatives, and witnesses before and during court proceedings (art. 56A.051(a)(8)).

If requested, attorneys for the state of Texas have the duty to provide the victim's employer with notice that the victim's cooperation and testimony are necessary for a proceeding that may require the victim to be absent from work for good cause (art. 56A.051(a)(10)).

An attorney representing the state who receives information concerning a victim's current address and phone number has the duty to immediately provide that information to the community supervision and corrections department supervising the defendant if the defendant is placed on community supervision (art. 56A.454(b)).

Duty to Return Property

Attorneys for the state of Texas have the duty to promptly return any property of the victim that is held by the attorney for the state as evidence when the property is no longer required for that purpose (art. 56A.051(a)(9)).

Duty Regarding Victim Impact Statements

Duty to Consider the Victim Impact Statement

It is the prosecutor's duty to use the Victim Impact Statement to record the impact of an offense on a victim and to provide the agencies and other participants in the criminal justice system with information needed to contact the victim if needed at any stage of the prosecution of a person charged with the offense (art. 56A.151).

Attorneys for the state have the duty to consider a victim's Victim Impact Statement before sentencing or before a plea bargain agreement is accepted (art. 56A.051(a)(12)(A)).

A Victim Impact Statement is subject to discovery under Article 39.14 before the testimony of the victim is taken only if the court determines that the statement contains exculpatory material (art. 56A.155).

Duty to Provide the Victim Impact Statement

On inquiry by the court, it is the duty of the attorney representing the state to make available a copy of the Victim Impact Statement for consideration by the court sentencing the defendant (art. 56A.157(b)).

If the court sentences the defendant to a term of community supervision, the attorney representing the state shall forward any Victim Impact Statement received in the case to the Community Supervision and Corrections Department supervising the defendant (art. 56A.159(a)).

Duty to Submit Victim Impact Statement Reports

At specified intervals, it is the duty of state and local agencies to submit, in a form prescribed, statistical data on the numbers and types of persons to whom the agency provides Victim Impact Statements and any other information required. The form prescribed is designed to protect the privacy of persons afforded rights and to determine whether the agency or office is making a good faith effort to protect the rights of the persons served (art. 56A.160(c)-(d)).

Note: The victim assistance coordinator may be designated by the agency to submit statistical data on the numbers and types of persons to whom the agency provides Victim Impact Statements.

Attorneys Representing the State of Texas

Additional Duties Related to the Offenses of Sexual Assault, Indecent Assault, Stalking, and Trafficking

Prohibited Use of Polygraph on Victims of Sex Offenses

An attorney representing the state may not require, request, or take a polygraph examination of a person who charges or seeks to charge in a complaint the commission of continuous sexual abuse of a child(ren), indecency with a child, sexual assault, aggravated sexual assault, or prohibited sexual conduct¹¹ (art. 15.051(a)).

Duty Regarding HIV Testing and Counseling

For sexual assault offenses, and on request, the office of the attorney representing the state has the duty to ensure to the extent practicable that a victim receives testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, and counseling regarding AIDS and HIV infection (art. 56A.052(a)(3)-(4)(A)).

A victim of continuous sexual abuse of a child, indecency with a child, sexual assault, or aggravated sexual assault,¹² or on the court's own motion, has the right to request the defendant who is indicted for or who waives indictment for the offense undergo a standard diagnostic test for HIV infection and other sexually transmitted diseases (e.g., hepatitis A, hepatitis B, tuberculosis, or other diseases designated as a reportable under Health and Safety Code § 81.048), not later than 48 hours after an indictment or waiver of indictment for the offense is presented against the defendant. The person charged with the offense shall pay the costs of testing. If the defendant refuses to submit voluntarily to the test, the court shall require the person to submit to the test. A person performing a test under this subsection shall make the test results available to the local health authority, and

the local health authority shall be required to make the notification of the test results to the victim of the offense and the defendant (art. 21.31(a)).

Duty to Pay Cost for Expert Testimony

For a sexual assault victim who has reported the assault, a prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the forensic medical examination or manner in which it was performed (art. 56A.253).

Duty to Inform and File Protective Orders for Victims of Certain Offenses

The office of the attorney representing the state has the duty to inform victims of trafficking, continuous trafficking, continuous sexual abuse of child(ren), indecent assault, indecency with a child, sexual assault, aggravated sexual assault, stalking, and compelling prostitution,¹³ or parent or guardian of the victim, if the victim is younger than 18 years of age or an adult ward, of:

- the right to file an application for a protective order under Article 7B.001;
- the court in which the application may be filed; and
- that the victim, parent or guardian of the victim, or another adult acting on behalf of the victim has the right to request the attorney representing the state file the application for a protective order on behalf of the victim (art. 56A.052(d)(1)(A)-(C), 56A.052(d)(2)(A)).

The attorney representing the state has a duty, subject to the Texas Disciplinary Rules of Professional Conduct, to file the application for a protective order with respect to the victim if the defendant is convicted of or placed on deferred adjudication community supervision for an offense listed above, and, if requested, notify the victim with the application for a protective order under Article 7B.001 if filed (art. 56A.052(d)(1)(D), 56A.052(d)(2)(B)).

¹¹ A complete description of these offenses can be found under Penal Code §§ 21.02, 21.11, 22.011, 22.021, 25.02 (art. 15.051(a)).

¹² A complete description of these offenses can be found under Penal Code §§ 21.02, 21.11(a)(1), 22.011, or 22.021 (art. 21.31(a)).

¹³ A complete description of these offenses can be found under Penal Code §§ 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.012, 22.021, 42.072, 43.05 (art. 56A.052(d)).

Attorneys Representing the State of Texas

If the victim or the victim's parent or guardian, as applicable, is present when the defendant is convicted or placed on deferred adjudication community supervision for an offense listed above, the victim has the right to be given by the court the information described above regarding protective orders and, if the court has jurisdiction over the application, the right to file a protective order immediately (art. 56A.052(d)(3)).

If the victim or the victim's parent or guardian is not present when the defendant is convicted or placed on deferred adjudication community supervision, it is the duty of the attorney representing the state to provide the victim with information regarding their right to file an application for a protective order under Article 7B.001, the court in which the application may be filed, and that the victim, parent or guardian of the victim, or another adult acting on behalf of the victim has the right to request the attorney representing the state file the application for a protective order on behalf of the victim (art. 56A.052(d)(4)).

If a protective order application has not yet been filed in a case of trafficking, continuous trafficking, continuous sexual abuse of child(ren), indecent assault, indecency with a child, sexual assault, aggravated sexual assault, stalking, and compelling prostitution,¹⁴ the attorney representing the state shall promptly file an application for a protective order with respect to each victim following the offender's conviction of or placement on deferred adjudication community supervision for the offense. The attorney representing the state may not file an application for a protective order with respect to a victim who is at least 18 years of age if the victim requests that the attorney representing the state not file the application (art. 7B.001(a-1)-(a-2)).

A victim of trafficking, continuous trafficking, or compelling prostitution is entitled to be informed that they may petition for an order of nondisclosure of criminal history record information if they have been convicted of or placed on deferred adjudication community supervision for an offense and committed that offense solely as a victim of an offense (art. 56A.052(e)).

Duty to Keep Victim Pseudonym Form Information Confidential

An attorney representing the state who receives notice from law enforcement that a victim of a sex offense (Subchapter C), stalking (Subchapter D), or trafficking (Subchapter F) has elected to be designated by a pseudonym shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense (arts. 58.103(d), 58.153(d), 58.253(d)).

- For sexual assault and trafficking offenses, a court may order the disclosure of a victim's name, address, and telephone number only if the court finds that the information is essential in the trial of the defendant for the offense, or the identity of the victim is an issue (arts. 58.104, 58.254).
- For stalking offenses, a court may order the disclosure of a victim's name, address, and telephone number only if the court finds that the information is essential in the trial of the defendant for the offense, the identity of the victim is an issue, or the disclosure is in the best interest of the victim (art. 58.154).

¹⁴ A complete description of these offenses can be found under Penal Code §§ 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072, 43.05 (art. 7B.001(a)(1)).

Victim Assistance Coordinators within District or County Attorneys' Offices

The district, criminal district, and county attorney's offices shall designate a person to serve as the agency's victim assistance coordinator (art. 56A.201). Victim assistance coordinators may assist prosecutors in fulfilling the agency's duties related to victims of crime, such as ensuring victims know and understand their rights, explaining general processes in the criminal justice system, helping victims apply for compensation, informing certain victims of their right to apply for a protective order, and discussing the uses of a Victim Impact Statement. Victim assistance coordinators have additional duties listed in the Texas Code of Criminal Procedure that are detailed below.

Duty to Ensure Victims are Afforded Their Rights

The victim assistance coordinator, designated under Article 56A.201, has the duty to ensure that victims are afforded the rights granted to them under the general rights of crime victims (Chapter 56A, Subchapter B), and the duty to work closely with appropriate law enforcement agencies, prosecuting attorneys, the Board of Pardons and Paroles, and the judiciary in carrying out those duties (art. 56A.202(a)).

Duty to Send the Victim Impact Statement

The victim assistance coordinator has the duty to send to a victim, a Victim Impact Statement and a victims' information booklet (Chapter 56A, Subchapter D), and an application for Crime Victims' Compensation (Chapter 56B), along with an offer to assist in completing those forms on request (art. 56A.202(b)).

Duty to Explain the Victim Impact Statement

Upon a victim's request, the victim assistance coordinator has the duty to explain the possible use and consideration of the Victim Impact Statement at sentencing and at future parole hearings of the defendant (art. 56A.202(c)).

Duty Regarding Counseling for Certain Jurors

Upon approval of a program by the commissioners' court, a victim assistance coordinator may offer, or provide counseling using a provider that assists local criminal justice agencies, not more than 10 hours of post-investigation or post-trial psychological counseling for persons who serve as a juror, in a case involving graphic evidence or testimony and requests the counseling not later than the 180th day after the jury is dismissed (art. 56A.205).

Duty Regarding Defense-Initiated Victim Outreach

The victim has the right to not be contacted by the victim outreach specialist unless the victim has consented to the contact by providing written notice to the court. The victim may designate the victim assistance coordinator to receive all communications on behalf of the victim from a victim outreach specialist acting on behalf of any person (art. 56A.051(a)(14)(B)-(C)).

Texas District and County Criminal Courts

Duty to Consider Victim Safety

The court has the duty to consider the safety of the victim or the victim's family in setting the amount of bail for the defendant (art. 56A.051(a)(2)).

Duty to Inform of Bond Conditions

As soon as practicable but not later than the next day after the date a magistrate issues an order imposing a condition of bond on a defendant under Chapter 17 for a violent offense, the magistrate has a duty to notify the sheriff of the condition and provide to the sheriff the following information:

- information concerning the number and nature of protective orders, magistrate's orders of emergency protection, and all other pertinent information about all persons subject to the active orders, including information about persons subject to conditions of bond imposed for the protection of a victim of family violence, sexual assault or abuse, indecent assault, stalking, or trafficking¹⁵ case (Gov't Code § 411.042(b)(6));
- the name and address of the victim of the offense and any other named person the conditions of bond are intended to protect (art. 17.50(b)(2));
- the date the order releasing the defendant on bond was issued (art. 17.50(b)(3)); and
- the court that issued the order releasing the defendant on bond (art. 17.50(b)(4)).

As soon as practicable, but not later than the next day after the magistrate revokes a bond that contains a condition, modifies the terms of or removes a condition of bond, or disposes of the underlying criminal charges, the magistrate has a duty to notify the sheriff and provide the sheriff with information that is sufficient to enable the sheriff to modify or remove the appropriate record in the database (art. 17.50(c)).

Duty to Consider the Impact of a Continuance

The court has the duty to consider the impact of a continuance on a victim of family violence, as defined by the Texas Family Code § 71.004, or an assault or sexual assault if younger than 17 when requested by the defendant's attorney, and the duty to state on the record the reason for granting or denying a continuance requested by the attorney representing the state or by the defendant's attorney (arts. 56A.051(a)(13); 29.14).

Duty to Afford the Victim the Right to be Present at Public Court Proceedings

The court has the duty to ensure a victim is afforded the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case and notwithstanding Rule 614 of the Texas Rules of Evidence (arts. 56A.051(b); 36.03).

Duty to Inquire about a Victim Impact Statement

Before accepting a plea of guilty or a plea of nolo contendere, the court has the duty to inquire as to whether a Victim Impact Statement has been returned to the attorney representing the state, ask for a copy of the statement if one has been returned, and inquire as to whether the attorney representing the state has given notice of the existence and terms of any plea bargain agreement to the victim (art. 26.13(e)).

Before imposing a sentence, the court has the duty to inquire as to whether a Victim Impact Statement has been returned to the attorney representing the state and, if one has been returned, consider the information provided in the statement (arts. 56A.157(a)).¹⁶

If a court sentences a defendant to imprisonment in the Texas Department of Criminal Justice, the court shall attach to the commitment papers the copy of the Victim Impact Statement provided to the court by the attorney representing the state (art. 56A.159(b)).

¹⁵ A complete description of these offenses can be found under Penal Code §§ 22.011, 22.021, 20A.02, 43.02(a), 43.02(b), 43.03, 43.031, 43.04, 43.041, 43.05, and Fam. Code § 71.004 (Gov't Code § 411.042(b)(2)).

¹⁶ For more information on the court's duties regarding the Victim Impact Statement and a defendant's right to see the Victim Impact Statement, see Articles 56A.156 and 56A.158.

Texas District and County Criminal Courts

Duty to Afford the Victim the Right to Allocute

The court shall permit a victim to appear in person to present to the court and to the defendant a statement of the person's views about the offense, the defendant, and the effect of the offense on the victim. The victim may not direct questions to the defendant while making the statement. The court reporter may not transcribe the statement (art. 42.03(b)). The statement must be made:

- after punishment has been assessed and the court has determined whether or not to grant community supervision in the case (art. 42.03(b)(1));
- after the court has announced the terms and conditions of the sentence (art. 42.03(b)(2)); and
- after the sentence is pronounced (art. 42.03(b)(3)).

The court may not impose a limit on the number of victims who may appear and present statements unless the court finds that additional statements would unreasonably delay the proceeding (art. 42.03(c)).

Duty to Seal Medical Records

The court has a duty to seal the medical records of a child who is a victim of an offense described by Article 38.071 § 1 on the court's own motion, or of the motion of the attorney representing the state, the defendant, or the parent or guardian of the victim or, if the victim is no longer a child, the victim (art. 58.302).

Duty Regarding Protective Orders for Certain Offenses

The court shall issue a protective order effective for the duration of the lives of the offender and victim if the offender is convicted of or placed on deferred adjudication community supervision for an offense of trafficking, continuous trafficking, continuous sexual abuse of child(ren), indecent assault, indecency with a child, sexual assault, aggravated sexual assault, stalking, and compelling prostitution¹⁷ and required under Chapter 62 to register for life as a sex offender (art. 7B.007(a-1)).

Duty to Inform the Victim of Appellate Decisions

The appellate court has the duty to inform a victim, if requested, of the court's decisions, after the decisions are entered but before the decisions are made public (art. 56A.051(a)(3)(B)).

Duty to Regarding Defense-Initiated Victim Outreach

If the offense is a capital felony, the court has a duty to provide the victim with a written explanation, by mail, of defense-initiated victim outreach if the court has authorized expenditures for a defense-initiated victim outreach specialist. The victim has the right to not be contacted by the victim outreach specialist unless the victim has consented to the contact by providing written notice to the court. The victim may designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person (art. 56A.051(a)(14)).

Note: The attorney representing the state may be designated by the court to provide the written notice of court-authorized expenditures for a defense-initiated victim outreach specialist.

¹⁷ A complete description of these offenses can be found under Penal Code §§ 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072, 43.05 (art. 7B.001(a)(1)).



TEXAS DEPARTMENT OF CRIMINAL JUSTICE
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The mission of the Texas Department of Criminal Justice Victim Services Division is to provide a central mechanism for crime victims to participate in the criminal justice system.