

- SUBJECT:** Rights of victims to refuse contact from victim outreach specialists
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Herrero, Carter, Canales, Hughes, Leach, Moody  
1 nay — Burnam  
2 absent — Schaefer, Toth
- WITNESSES:** For — Pam Alexander, Lubbock Victim Assistance Services Inc.; Matt Powell, Lubbock County Criminal District Attorney (*Registered, but did not testify*: John Dodson, Uvalde County Attorney; Brian Eppes, Tarrant County District Attorney’s Office; Steven Tays, Bexar County Criminal District Attorney’s Office; Justin Wood, Harris County District Attorney’s Office)
- Against — Norton Armour; Rais Bhuiyan; Liza Friend; Kathryn Kase, Texas Defender Service; Paula Kurland; Linda White; (*Registered, but did not testify*: Kristin Etter, Texas Criminal Defense Lawyers Association; Meredith Kincaid, American Civil Liberties Union of Texas; Susan Milam, National Association of Social Workers/Texas Chapter; Curtis Wilson)
- On — Marilyn Armour, University of Texas at Austin (*Registered, but did not testify*: Shannon Edmonds, Texas District and County Attorney’s Association; Stephanie Frogge, University of Texas at Austin Institute for Restorative Justice and Restorative Dialogue)
- BACKGROUND:** Defense Initiated Victim Outreach is a program in which a victim outreach specialist – if requested by the defense attorney in a criminal case, usually a capital felony – contacts the victim of a crime to ascertain questions and needs that the victim may have that the defense may be able to address. It is administered by the Institute for Restorative Justice and Restorative Dialogue at The University of Texas at Austin, School of Social Work.
- Code of Criminal Procedure, art. 56.02 enumerates certain rights of a victim, guardian of a victim, or close relative of a deceased victim within the criminal justice system.

DIGEST:

HB 899 would amend the list of victims' rights under Code of Criminal Procedure, art 56.02 to add the right to:

- decline to be contacted by a victim outreach specialist if the contact was initiated by the defendant or the defendant's attorney;
- designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person; and
- have the prosecutor notify the defendant and the defendant's attorney of their decision to decline contact or designate a recipient for communication.

These rights would apply only in a case where the offense is a capital felony (death or life in prison).

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUPPORTERS  
SAY:

HB 899 is needed to protect the rights of crime victims. The bill would assert the rights of victims to refuse contact from a victim outreach specialist, who may be causing stress or trauma by contacting the victim. Since Defense Initiated Victim Outreach began in Texas, crime victims and their families have been harassed by victim outreach specialists who persist in attempts to contact them. Victims have had to make complaints to victims' assistance services and prosecutors for help in stopping the stream of letters and attempts at contact from specialists. Crime victims deserve to move on with their lives without being re-victimized by the defense team of a person who has already hurt them. HB 899 would allow them to do so.

The bill would alleviate the impact of the Defense Initiated Victim Outreach program on victims and the appropriate punishment of heinous crimes. Victim outreach specialists can emotionally manipulate victims and influence them into advising the prosecutor not to seek the death penalty. By providing minor concessions and attempting to appeal to the victim's sympathy, the program tends to manipulate victims into asking the prosecutor to seek a lesser punishment. The bill would mitigate the ability of defense teams and third parties to insinuate themselves into the victim's life in this way.

The bill would provide an option to victims who did not wish to be contacted by a specialist but would not affect the rights of victims who felt they could benefit from the program. Not every victim heals from crime in the same way. Different victims have different reactions to crime and to the defendants who harmed them. Many do not wish to have contact with a victim outreach specialist, even one who has suffered from a similar crime. By strengthening victims' rights to decline contact from a specialist, the bill would empower all victims, not just those who would seek Defense Initiated Victim Outreach.

The bill would protect victims from being forced to communicate directly with a person who represented the interests of the defense team. It is the policy of the Defense Initiated Victim Outreach program to require that a refusal come from the victim or family member of the victim themselves, rather than allowing them to pass that message on through a victim's advocate or prosecutor. This can result in stress and trauma for victims who want to allow an agent to refuse on their behalf and do not want to have contact with the defense team or anyone hired by them. The bill would ensure that victims had the ability to designate another person to refuse contact on their behalf.

**OPPONENTS  
SAY:**

HB 899 would take rights away from crime victims. Victims of traumatic crimes deserve to know what defense-initiated victim outreach is and what services a victim outreach specialist can provide. The bill would make it more likely that a victim would decline the services of a victim outreach specialist without understanding what the specialist's purpose is and what he or she could provide to them. Many victim outreach specialists are victims of crime themselves who have been helped and empowered by the program and are empathetic to the needs and emotions of the victims with whom they are working. Defense Initiated Victim Outreach helps victims to heal and gain closure for the crime and provides opportunities for them to communicate problems and concerns.

The bill would increase the opportunity for misinformation and misunderstanding about the purpose of Defense Initiated Victim Outreach. By allowing others to receive communications and refuse contact on the victim's behalf, misinformation could be passed to the defendant about what Defense Initiated Victim Outreach is and how a specialist can help them. The bill would allow mediation between the victim and victim outreach specialist. This is especially problematic because prosecutors are

interested parties and have a bias in the case. Designees, if allowed, should be limited to neutral parties.

OTHER  
OPPONENTS  
SAY:

HB 899 would not provide a remedy for the violation of the rights that the bill would affirm. Although Code of Criminal Procedure, art. 56.02 affirms that certain entities have a duty to ensure the victim is afforded these rights, there is no practical component of the bill that would allow for prosecution or penalty for those who violated its provisions.