

BILL ANALYSIS

Senate Research Center

H.B. 156
By: Driver (Shapiro)
Criminal Justice
5-18-97
Committee Report (Amended)

DIGEST

Under current law, a parole panel may, but is not required to, prohibit contact with a victim as a condition of a defendant's parole or mandatory supervision. Prohibition of contact typically occurs when the victim requests the parole panel to apply this condition. When this condition is not required, the criminal may continue to have unlimited contact with the victim. H.B. 156 would require the parole panel to prohibit contact with the victim as a condition of parole or mandatory supervision for certain offenders; however, this legislation provides for contact between the victim and the defendant if the victim makes this request and the panel concurs. This bill also establishes provisions which facilitate victim-offender mediation when a victim or a victim's close relative or guardian requests mediation with a person released to parole or mandatory supervision.

PURPOSE

As proposed, H.B. 156 provides for prohibiting contact with the victim as a mandatory condition of parole or mandatory supervision for certain offenders, and establishes provisions which facilitate victim-offender mediation in certain circumstances.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Department of Corrections in SECTION 5 (Sec. 498.0042(a), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8(o)(1), Article 42.18, Code of Criminal Procedure, as added by Chapter 10, Acts of the 73rd Legislature, Regular Session, 1993, to require a parole panel, in addition to other conditions imposed, to require as a condition of parole or release to mandatory supervision that an inmate serving a sentence for the offense of stalking not communicate directly or indirectly with the victim or go to or near the victim's residence, place of employment, business, or facility where a dependent child of the victim is in attendance. Deletes a provision authorizing a parole panel to require the same. Makes conforming and standard recodification changes.

SECTION 2. Amends Article 42.18, Code of Criminal Procedure, by adding Section 8C, as follows:

Sec. 8C. NO CONTACT WITH VICTIM. Requires a parole panel which releases a defendant on parole or mandatory supervision to require as a condition of release that the defendant not intentionally or knowingly communicate directly or indirectly with a victim of the offense or go near a residence, school, place of employment, business, or other location frequented by the victim. Authorizes a victim of the offense to petition the panel for a modification of the conditions of the defendant's parole or supervision allowing the defendant contact with the victim under certain circumstances. Sets forth the terms by which a condition imposed under this section prevails over an existing court order granting possession of or access to a child. Authorizes a defendant, notwithstanding Subsection (a), to participate in victim-offender mediation on the request of certain persons. Defines "victim."

SECTION 3. Amends Article 42.18, Code of Criminal Procedure, by adding Section 30, as follows:

Sec. 30. VICTIM-OFFENDER MEDIATION. Requires the pardons and paroles division

(division), upon receiving notice that a victim of the defendant, or the victim's guardian or close relative, wishes to participate in victim-offender mediation with a person released to parole or mandatory supervision, to cooperate and assist the person. Prohibits the division from requiring the defendant to participate, and from rewarding the person for participation by modifying conditions of release or levels of supervision, or by granting any other benefit.

SECTION 4. Amends Article 26.13, Code of Criminal Procedure, by adding Subsection (g), to authorize a court, before accepting a plea of guilty or a plea of nolo contendere and on the request of the victim of the offense, to assist the victim and the defendant in participating in a victim-offender mediation program.

SECTION 5. Amends Chapter 498, Government Code, by adding Section 498.0042, as follows:

Sec. 498.0042. FORFEITURE FOR CONTACTING VICTIMS. Requires the Texas Department of Corrections (department) to adopt policies that prohibit an inmate in the institutional division or in a transfer facility from contacting by letter, telephone, or any other means, either directly or indirectly, a victim of the offense for which the inmate is serving in certain circumstances. Requires the department to forfeit all or any part of the inmate's accrued good conduct if the inmate violates a policy adopted under Subsection (a). Prohibits the department from restoring good conduct time forfeited under this subsection.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1997.

SECTION 8. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 2, line 2, between "not" and "communicate" add "intentionally or knowingly."

Amendment 2.

Adds SECTION 5, to amend Chapter 498, Government Code, by adding Section 498.0042, regarding the forfeiture for contacting victims.

Adds new SECTION 6 to make the application of this Act prospective.

Renumbers existing sections accordingly.