

Giving Victims a Voice: Victim Offender Conferencing

Analysis of House Bill 1512

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Background and Purpose

Currently, there is no express statutory authorization for adult criminal cases to be referred for a fee to mediation or victim-offender conferencing in Texas. Such programs seek to resolve the perpetrator's acts against a victim without formal judicial intervention by directly redressing victims' losses and their needs to be made whole.

In other jurisdictions that have begun using victim offender conferencing, research shows that 89 percent of agreements were successfully completed,¹ 79 percent of victims were satisfied,² and 72 percent of such programs reduced recidivism by an average of 7 percent.³ These rates far exceed the rates of restitution paid and victim satisfaction obtained following formal justice system processes. The diversion of cases to criminal alternative dispute resolution, or ADR, has also been shown to reduce costs to taxpayers by reducing the number of cases that must be resolved through traditional court proceedings.⁴

Analysis

Senate Bill 1237 seeks to amend the Code of Civil Procedure to provide an avenue for ADR for criminal cases in participating counties by providing for the procedure for prosecutorial referral, with the approval of the victim and the defendant's voluntary waiver of his or her right to trial and appeal, and the collection of a participant fee from the defendant.

This section of the Code of Civil Procedure already provides for ADR in civil cases, and this legislation would add criminal cases to those eligible for court referral to ADR, but only after a motion by the state's attorney and consent from the victim.

In addition, this legislation permits a commissioner's court in a participating county to set a reasonable fee of no more than \$350 for the ADR services provided in a referred case. This is necessary statutory authorization, without which entities are unable or unwilling to provide the ADR services.

SB 1237 also permits a court, upon a finding that the defendant is financially able to do so, to order the defendant to pay for legal services costs for any appointed counsel services for the defendant that are used during the ADR process.

Ultimately, this legislation would provide a victim-directed avenue to resolve a criminal case through conferencing with a defendant directly and by obtaining specific resolution of the victim's losses and needs following a criminal act. This will permit more victims to be made whole and more offenders to be held accountable to the stark reality of the effects of their actions. ★

¹ J. Gehm, "Mediated Victim-Offender Restitution Agreements: An Exploratory Analysis of Factors Related to Victim Participation," in B. Galaway & J. Hudson (Eds.), *Criminal Justice, Restitution, and Reconciliation* (Monsey, NY: Criminal Justice Press, 1990).

² M. Umbreit with R. Coates and B. Kalanj, *Victim Meets Offender: The Impact of Restorative Justice and Conferencing* (Monsey, N.Y.: Criminal Justice Press, 1994).

³ J. Latimer, C. Dowden, and D. Muise, "The Effectiveness of Restorative Justice Practices: A Meta-Analysis," *The Prison Journal* 85, no. 2 (2005).

⁴ M. Niemeyer and D. Shichor, "A Preliminary Study of a Large Victim/Offender Reconciliation Program," *Federal Probation* 60 no. 3 (1996): 30-34.