

By: Naishtat

H.B. No. 338

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorizing certain persons to make an oral statement
3 regarding the impact of an offense on the victim before sentencing
4 in certain cases.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 56, Code of Criminal Procedure, is
7 amended by adding Article 56.035 to read as follows:

8 Art. 56.035. ORAL STATEMENT. (a) After a finding of guilt
9 or an order of deferred adjudication is entered and before the
10 imposition of a sentence by the court in a criminal case in which
11 punishment is assessed by the court, the court shall permit a
12 victim, guardian of a victim, or close relative of a deceased victim
13 to appear in person to present to the court an oral statement of the
14 person's views about the offense and the effect of the offense on
15 the victim. The court shall consider the oral statement, in
16 addition to any written victim impact statement, before sentencing
17 the defendant.

18 (b) The court shall permit the defendant or the defendant's
19 counsel an opportunity to cross-examine the victim and comment on
20 the oral statement. With the approval of the court, the defendant
21 may introduce testimony or other information alleging a factual
22 inaccuracy in the oral statement.

23 (c) The right to present an oral statement under this
24 article does not affect a person's right to present a statement

1 under Section 1(b), Article 42.03.

2 SECTION 2. (a) The change in law made by this Act applies
3 only to a sentencing proceeding that commences on or after the
4 effective date of this Act.

5 (b) A sentencing proceeding that commences before the
6 effective date of this Act is covered by the law in effect when the
7 proceeding commenced, and the former law is continued in effect for
8 that purpose.

9 SECTION 3. This Act takes effect September 1, 2005.