

## **BILL ANALYSIS**

C.S.H.B. 1489  
By: Naishtat  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that, currently, a victim of a violent crime in Texas has the right to provide an oral victim impact statement to the court after the court assesses the defendant's punishment and pronounces the sentence, but oral victim impact statements are not permitted before sentencing. Those parties contend that authorizing such a statement before sentencing of a defendant found guilty of the crime would allow the court to refocus attention on the crime's effect on and the resulting cost to the victim and allow the victim to participate more fully in the criminal justice process.

C.S.H.B. 1489 seeks to provide certain victims and certain close relatives or guardians of the victim the opportunity to present an oral victim impact statement after a finding of guilt but before sentencing.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1489 amends the Code of Criminal Procedure to authorize a court, after entering a finding of guilt but before imposing a sentence, to permit a victim of an offense in certain cases involving a violent crime, close relative of a deceased victim, or guardian of a victim to appear in open court to present to the court an oral statement about the offense and the effect of the offense on the victim. The bill requires the court to consider the oral statement before sentencing the defendant. The bill prohibits the defendant or the attorney representing the defendant from cross-examining the person making the oral statement and authorizes the defendant or the attorney representing the defendant to introduce testimony or other information alleging a factual inaccuracy in the oral statement. The bill provides that the presentation and consideration of such an oral statement is in addition to the consideration of a written victim impact statement and does not preclude the lawfully authorized presentation of a statement after sentence is pronounced. The bill makes its provisions applicable to an adjudication of guilt in a criminal case regardless of whether the defendant previously received a deferral of that adjudication. The bill specifies that its provisions do not apply if punishment is to be assessed by a jury.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1489 contains a provision not included in the original prohibiting the defendant or the attorney representing the defendant in a criminal case from cross-examining a person making an oral statement about an offense and the effect of the offense on the victim in open court before

the imposition of a sentence. The substitute differs from the original by authorizing the defendant or the attorney representing the defendant to introduce testimony or other information alleging a factual inaccuracy in the oral statement, whereas the original authorizes the court to permit the defendant or the attorney representing the defendant an opportunity to introduce such testimony or information.