

By: Naishtat

H.B. No. 1489

Substitute the following for H.B. No. 1489:

By: Gallego

C.S.H.B. No. 1489

A BILL TO BE ENTITLED

AN ACT

relating to an oral statement regarding the impact of an offense in certain cases involving a violent crime.

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

SECTION 1. Subchapter A, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.031 to read as follows:

Art. 56.031. ORAL STATEMENT RELATING TO VICTIM IMPACT. (a)

After a court enters a finding of guilt, but before the imposition of a sentence by the court, the court shall permit a victim, 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.

(b) The court shall consider the oral statement before sentencing the defendant.

(c) The defendant or the attorney representing the defendant:

(1) may not cross-examine the person making the oral statement; and

(2) may introduce testimony or other information alleging a factual inaccuracy in the oral statement.

(d) The presentation and consideration of an oral statement under this article is in addition to the consideration of a written victim impact statement under Article 56.03 and does not preclude the presentation of a statement after sentence is pronounced under

1 Article 42.03.

2 (e) Except as provided by Subsection (f), this article
3 applies to an adjudication of guilt in a criminal case regardless of
4 whether the defendant previously received a deferral of that
5 adjudication under Section 5, Article 42.12.

6 (f) This article does not apply if punishment is to be
7 assessed by a jury.

8 SECTION 2. The change in law made by this Act applies only
9 to a sentencing proceeding that commences on or after the effective
10 date of this Act. A sentencing proceeding that commences before the
11 effective date of this Act is covered by the law in effect when the
12 sentencing proceeding commenced, and the former law is continued in
13 effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2011.