

- SUBJECT:** Allowing an oral victim impact statement in certain cases
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Gallego, Hodge, Kent, Miklos, Moody, Pierson, Vaught, Vo  
0 nays  
3 absent — Christian, Fletcher, Riddle
- WITNESSES:** For — Torie Camp, Texas Association Against Sexual Assault; Augusta A. Rice, Mothers Against Drunk Driving; (*Registered, but did not testify:* Jennifer Cutrer, Parkland Health and Hospital System; Jim Grace, Houston Area Women's Center; Aaron Setliff, The Texas Council on Family Violence)  
  
Against — None  
  
On — Shannon Edmonds, Texas District and County Attorneys Association
- BACKGROUND:** Code of Criminal Procedure, art. 56.03 allows a victim, victim's guardians, and relatives of a deceased victim to submit a written victim impact statement about the offense and effects of the offense. If the court in a criminal case receives such a statement, the court must consider the statement prior to sentencing, permit the defendant or counsel a reasonable time to read the statement, and with the court's approval, introduce testimony or other information alleging a factual inaccuracy in the statement.  
  
Under Code of Criminal Procedure, art. 42.03 a victim, victim's guardian, or close relative of a deceased victim is permitted to make an oral victim impact statement after a finding of guilt, and imposition of sentence.  
  
Texas is the only state that does not allow oral victim impact statements before sentencing.
- DIGEST:** HB 167 would require the court to permit a victim, guardian of a victim, or close relative of a deceased victim to make an oral victim impact

statement after the court entered a finding of guilt or order of deferred adjudication, but before the imposition of a sentence, and consider the information in the statement before sentencing the defendant.

The court would be required to permit the defendant or defendant's counsel an opportunity to cross-examine the person making the oral statement, comment on the statement, and, with the court's approval, introduce testimony or other information alleging a factual inaccuracy in the statement.

The consideration of an oral victim impact statement would be in addition to the consideration of a written statement, and would not preclude the presentation of a statement after sentence was pronounced. A pre-sentencing oral victim impact statement would not be permitted if the punishment was to be assessed by a jury.

HB 167 would take effect September 1, 2009, and would apply only to a sentencing proceeding that commenced on or after this date.

**NOTES:**

The companion bill, SB 57 by Zaffirini, has been referred to the Senate Criminal Justice Committee.