

By: Schofield

H.B. No. 2915

A BILL TO BE ENTITLED

AN ACT

relating to the role of a jury in a criminal case.

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

SECTION 1. Article 35.16, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) A challenge for cause may be made by the State for any of the following reasons:

1. That the juror has conscientious scruples in regard to the infliction of the punishment of death for crime, in a capital case, where the State is seeking the death penalty; or

2. That the juror [~~he~~] is related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code, to the defendant [~~, and~~

~~[3. That he has a bias or prejudice against any phase of the law upon which the State is entitled to rely for conviction or punishment].~~

(d) A potential juror may not be excused or disqualified from serving on a jury because the juror expresses a willingness to exercise a power granted to the jury under Article 36.13.

SECTION 2. Article 36.13, Code of Criminal Procedure, is amended to read as follows:

Art. 36.13. ROLE OF JURY [~~IS JUDGE OF FACTS~~]. (a) Unless otherwise provided in this Code, the jury is the exclusive judge of

1 the facts. The jury~~[, but it]~~ is bound to receive the law from the
2 court and be governed by that law, except if a jury determines that
3 a defendant is guilty according to the law but that the law is
4 unjust or unjustly applied to the defendant, the jury may determine
5 not to apply the law to the defendant and find the defendant not
6 guilty or guilty of a lesser included offense ~~[thereby]~~.

7 (b) A defendant has the right to inform the jury of the
8 jury's power to judge the law in accordance with Subsection (a) and
9 to vote on the verdict for the defendant's case according to
10 conscience. The court or the state may not infringe on this right.
11 Failure to allow the defendant to inform the jury of the jury's
12 power is grounds for a mistrial.

13 (c) Notwithstanding any other law, the court shall allow the
14 defendant to present to the jury for its consideration evidence and
15 testimony relevant to the exercise of the jury's power under this
16 article, including evidence and testimony relating to:

17 (1) the merit, intent, constitutionality, or
18 applicability of the law in the defendant's case;

19 (2) the motives, moral perspective, or intent of the
20 defendant;

21 (3) the defendant's degree of guilt or the actual harm
22 caused by the defendant; or

23 (4) the punishment that may be imposed on the
24 defendant.

25 (d) The state may rebut any evidence introduced under this
26 article with evidence similar in nature.

27 SECTION 3. The change in law made by this Act applies only

1 to a jury empaneled on or after the effective date of this Act.

2 SECTION 4. This Act takes effect September 1, 2021.