

By: Ellis

S.B. No. 741

A BILL TO BE ENTITLED

AN ACT

relating to the decertification of a capital case.

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

SECTION 1. Chapter 37, Code of Criminal Procedure, is amended by adding Article 37.072 to read as follows:

Art. 37.072. DECERTIFICATION AS A CAPITAL CASE. (a) In this section, "inmate informant" means a person who is purporting to testify about admissions made to the person by the defendant while confined contemporaneously in a penal institution.

(b) In a case in which the defendant has been found guilty of a capital felony and the state seeks the death penalty, or in a case in which the death penalty has been imposed that is on remand for resentencing, the court, on the court's own motion or the written motion of the defendant, may decertify the case as a capital case if the court finds that the only evidence supporting the defendant's conviction is uncorroborated testimony of an inmate informant or a single eyewitness or single accomplice.

(c) If the court decertifies the case as a capital case under Subsection (b), the court shall issue a written finding. The state may appeal the decertification.

(d) If the court does not decertify the case as a capital case, the matter shall proceed to the death eligibility phase of the sentencing hearing.

SECTION 2. The change in law made by this Act applies only

1 to a capital case in which the voir dire examination begins on or  
2 after the effective date of this Act. A capital case in which the  
3 voir dire examination begins before the effective date of this Act  
4 is covered by the law in effect when the examination begins, and the  
5 former law is continued in effect for that purpose.

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