

AN ACT

relating to the introduction of certain evidence in the sentencing phase of a capital felony case.

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

SECTION 1. Subdivision (1), Subsection (a), Section 2, Article 37.071, Code of Criminal Procedure, is amended to read as follows:

(1) If a defendant is tried for a capital offense in which the state seeks the death penalty, on a finding that the defendant is guilty of a capital offense, the court shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death or life imprisonment. The proceeding shall be conducted in the trial court and, except as provided by Article 44.29(c) of this code, before the trial jury as soon as practicable. In the proceeding, evidence may be presented by the state and the defendant or the defendant's counsel as to any matter that the court deems relevant to sentence, including evidence of the defendant's background or character or the circumstances of the offense that mitigates against the imposition of the death penalty. This subdivision shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Texas. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death. The

1 introduction of evidence of extraneous conduct is governed by the
2 notice requirements of Section 3(g), Article 37.07. The court, the
3 attorney representing the state, the defendant, or the defendant's
4 counsel may not inform a juror or a prospective juror of the effect
5 of a failure of a jury to agree on issues submitted under Subsection
6 (c) or (e) of this article.

7 SECTION 2. The change in law made by this Act applies only
8 to an offense committed on or after the effective date of this Act.
9 An offense committed before the effective date of this Act is
10 covered by the law in effect when the offense was committed, and the
11 former law is continued in effect for that purpose. For purposes of
12 this section, an offense was committed before the effective date of
13 this Act if any element of the offense was committed before that
14 date.

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

S.B. No. 1507

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1507 passed the Senate on May 3, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1507 passed the House on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor