

By: Dutton

H.B. No. 806

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the admissibility in a trial for capital murder of the
3 identification of a suspect in a pre-trial photographic
4 identification procedure.

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

6 SECTION 1. Article 38.36, Code of Criminal Procedure, is
7 amended by adding Subsection (c) to read as follows:

8 (c) In this subsection, "pre-trial photographic
9 identification procedure" means a process by which a witness
10 identifies a suspect through the use of a photograph that is
11 presented to the witness by a peace officer. In a prosecution for
12 capital murder, evidence of the identification of a suspect in a
13 pre-trial photographic identification procedure is inadmissible as
14 unduly suggestive if the procedure:

15 (1) is conducted in the presence of a peace officer who
16 is primarily responsible for conducting the investigation of the
17 capital murder; or

18 (2) consists of presenting to the witness photographs
19 that depict the suspect contemporaneously with photographs that
20 depict other individuals.

21 SECTION 2. (a) The change in law made by this Act applies
22 only to a pre-trial photographic identification procedure, as
23 defined by Article 38.36(c), Code of Criminal Procedure, as added
24 by this Act, that takes place on or after the effective date of this

1 Act.

2 (b) A pre-trial photographic identification procedure that
3 took place before the effective date of this Act is covered by the
4 law in effect when the procedure took place, and the former law is
5 continued in effect for that purpose.

6 SECTION 3. This Act takes effect September 1, 2007.