

By: Allen

H.B. No. 1279

A BILL TO BE ENTITLED

AN ACT

relating to jury instructions regarding parole eligibility.

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

SECTION 1. Sections 4(a), (b), and (c), Article 37.07, Code of Criminal Procedure, are amended to read as follows:

(a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is an offense under Section 71.02, Penal Code, other than an offense punishable as a state jail felony under that section, an offense under Section 71.023, Penal Code, or an offense listed in Article 42A.054(a), or if the judgment contains an affirmative finding under Article 42A.054(c) or (d), unless the defendant has been convicted of an offense under Section 21.02, Penal Code, an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section, or a capital felony, the court shall charge the jury in writing as follows:

~~["Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or~~

1 ~~part of any good conduct time earned by the prisoner.]~~

2 The [~~It is also possible that the~~] length of time for which a
3 [~~the~~] defendant is [~~will be~~] imprisoned may [~~might~~] be reduced by
4 the award of parole.

5 "Under the law applicable in this case, if the defendant is
6 sentenced to a term of imprisonment, the defendant will not become
7 eligible for parole until the actual time served equals one-half of
8 the sentence imposed or 30 years, whichever is less[~~, without~~
9 ~~consideration of any good conduct time the defendant may earn~~]. If
10 the defendant is sentenced to a term of less than four years, the
11 defendant must serve at least two years before the defendant is
12 eligible for parole. Eligibility for parole does not guarantee
13 that parole will be granted.

14 "It cannot accurately be predicted how the parole law [~~and~~
15 ~~good conduct time~~] might be applied to this defendant if sentenced
16 to a term of imprisonment, because the application of that law
17 [~~these laws~~] will depend on decisions made by [~~prison and~~] parole
18 authorities.

19 "You may consider the existence of the parole law [~~and good~~
20 ~~conduct time. However, you are not to consider the extent to which~~
21 ~~good conduct time may be awarded to or forfeited by this particular~~
22 ~~defendant~~]. You are not to consider the manner in which the parole
23 law may be applied to this particular defendant."

24 (b) In the penalty phase of the trial of a felony case in
25 which the punishment is to be assessed by the jury rather than the
26 court, if the offense is punishable as a felony of the first degree,
27 if a prior conviction has been alleged for enhancement of

1 punishment as provided by Section 12.42(b), (c)(1) or (2), or (d),
2 Penal Code, or if the offense is a felony not designated as a
3 capital felony or a felony of the first, second, or third degree and
4 the maximum term of imprisonment that may be imposed for the offense
5 is longer than 60 years, unless the offense of which the jury has
6 found the defendant guilty is an offense that is punishable under
7 Section 21.02(h), Penal Code, or is listed in Article 42A.054(a) or
8 the judgment contains an affirmative finding under Article
9 42A.054(c) or (d), the court shall charge the jury in writing as
10 follows:

11 "The length of time for which a defendant is imprisoned may be
12 reduced by the award of parole.

13 "Under the law applicable in this case, the defendant, if
14 sentenced to a term of imprisonment, may earn early parole
15 eligibility [~~time off the period of incarceration imposed~~] through
16 the award of good conduct time. Prison authorities may award good
17 conduct time to a prisoner who exhibits good behavior, diligence in
18 carrying out prison work assignments, and attempts at
19 rehabilitation. If a prisoner engages in misconduct, prison
20 authorities may also take away all or part of any good conduct time
21 earned by the prisoner.

22 [~~"It is also possible that the length of time for which the~~
23 ~~defendant will be imprisoned might be reduced by the award of~~
24 ~~parole.~~]

25 "Under the law applicable in this case, if the defendant is
26 sentenced to a term of imprisonment, the defendant [~~he~~] will not
27 become eligible for parole until the actual time served plus any

1 good conduct time earned equals one-fourth of the sentence imposed
2 or 15 years, whichever is less. Eligibility for parole does not
3 guarantee that parole will be granted.

4 "It cannot accurately be predicted how the parole law and
5 good conduct time might be applied to this defendant if [~~he is~~]
6 sentenced to a term of imprisonment, because the application of
7 these laws will depend on decisions made by prison and parole
8 authorities.

9 "You may consider the existence of the parole law and good
10 conduct time. However, you are not to consider the extent to which
11 good conduct time may be awarded to or forfeited by this particular
12 defendant. You are not to consider the manner in which the parole
13 law may be applied to this particular defendant."

14 (c) In the penalty phase of the trial of a felony case in
15 which the punishment is to be assessed by the jury rather than the
16 court, if the offense is punishable as a felony of the second or
17 third degree, if a prior conviction has been alleged for
18 enhancement as provided by Section 12.42(a), Penal Code, or if the
19 offense is a felony not designated as a capital felony or a felony
20 of the first, second, or third degree and the maximum term of
21 imprisonment that may be imposed for the offense is 60 years or
22 less, unless the offense of which the jury has found the defendant
23 guilty is listed in Article 42A.054(a) or the judgment contains an
24 affirmative finding under Article 42A.054(c) or (d), the court
25 shall charge the jury in writing as follows:

26 "The length of time for which a defendant is imprisoned may be
27 reduced by the award of parole.

1 "Under the law applicable in this case, the defendant, if
2 sentenced to a term of imprisonment, may earn early parole
3 eligibility [~~time off the period of incarceration imposed~~] through
4 the award of good conduct time. Prison authorities may award good
5 conduct time to a prisoner who exhibits good behavior, diligence in
6 carrying out prison work assignments, and attempts at
7 rehabilitation. If a prisoner engages in misconduct, prison
8 authorities may also take away all or part of any good conduct time
9 earned by the prisoner.

10 [~~"It is also possible that the length of time for which the~~
11 ~~defendant will be imprisoned might be reduced by the award of~~
12 ~~parole.~~]

13 "Under the law applicable in this case, if the defendant is
14 sentenced to a term of imprisonment, the defendant [~~he~~] will not
15 become eligible for parole until the actual time served plus any
16 good conduct time earned equals one-fourth of the sentence imposed.
17 Eligibility for parole does not guarantee that parole will be
18 granted.

19 "It cannot accurately be predicted how the parole law and
20 good conduct time might be applied to this defendant if [~~he is~~]
21 sentenced to a term of imprisonment, because the application of
22 these laws will depend on decisions made by prison and parole
23 authorities.

24 "You may consider the existence of the parole law and good
25 conduct time. However, you are not to consider the extent to which
26 good conduct time may be awarded to or forfeited by this particular
27 defendant. You are not to consider the manner in which the parole

1 law may be applied to this particular defendant."

2 SECTION 2. The change in law made by this Act applies to a
3 defendant sentenced for an offense on or after the effective date of
4 this Act, regardless of when the offense was committed.

5 SECTION 3. This Act takes effect September 1, 2019.