

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.