

1-1 By: Allen (Senate Sponsor - Menéndez) H.B. No. 1279  
 1-2 (In the Senate - Received from the House April 15, 2019;  
 1-3 April 16, 2019, read first time and referred to Committee on  
 1-4 Criminal Justice; May 9, 2019, reported favorably by the following  
 1-5 vote: Yeas 6, Nays 0; May 9, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Huffman	X			
1-9 Buckingham	X			
1-10 Flores	X			
1-11 Hughes			X	
1-12 Miles	X			
1-13 Perry	X			

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to jury instructions regarding parole eligibility.  
 1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-19 SECTION 1. Sections 4(a), (b), and (c), Article 37.07, Code  
 1-20 of Criminal Procedure, are amended to read as follows:  
 1-21 (a) In the penalty phase of the trial of a felony case in  
 1-22 which the punishment is to be assessed by the jury rather than the  
 1-23 court, if the offense of which the jury has found the defendant  
 1-24 guilty is an offense under Section 71.02, Penal Code, other than an  
 1-25 offense punishable as a state jail felony under that section, an  
 1-26 offense under Section 71.023, Penal Code, or an offense listed in  
 1-27 Article 42A.054(a), or if the judgment contains an affirmative  
 1-28 finding under Article 42A.054(c) or (d), unless the defendant has  
 1-29 been convicted of an offense under Section 21.02, Penal Code, an  
 1-30 offense under Section 22.021, Penal Code, that is punishable under  
 1-31 Subsection (f) of that section, or a capital felony, the court shall  
 1-32 charge the jury in writing as follows:  
 1-33 ~~["Under the law applicable in this case, the defendant, if~~  
 1-34 ~~sentenced to a term of imprisonment, may earn time off the period of~~  
 1-35 ~~incarceration imposed through the award of good conduct~~  
 1-36 ~~time. Prison authorities may award good conduct time to a prisoner~~  
 1-37 ~~who exhibits good behavior, diligence in carrying out prison work~~  
 1-38 ~~assignments, and attempts at rehabilitation. If a prisoner~~  
 1-39 ~~engages in misconduct, prison authorities may also take away all or~~  
 1-40 ~~part of any good conduct time earned by the prisoner.]~~  
 1-41 "The ~~[It is also possible that the]~~ length of time for which a  
 1-42 ~~[the]~~ defendant is ~~[will be]~~ imprisoned may ~~[might]~~ be reduced by  
 1-43 the award of parole.  
 1-44 "Under the law applicable in this case, if the defendant is  
 1-45 sentenced to a term of imprisonment, the defendant will not become  
 1-46 eligible for parole until the actual time served equals one-half of  
 1-47 the sentence imposed or 30 years, whichever is less~~[, without~~  
 1-48 ~~consideration of any good conduct time the defendant may earn]~~. If  
 1-49 the defendant is sentenced to a term of less than four years, the  
 1-50 defendant must serve at least two years before the defendant is  
 1-51 eligible for parole. Eligibility for parole does not guarantee  
 1-52 that parole will be granted.  
 1-53 "It cannot accurately be predicted how the parole law ~~[and~~  
 1-54 ~~good conduct time]~~ might be applied to this defendant if sentenced  
 1-55 to a term of imprisonment, because the application of that law  
 1-56 ~~[these laws]~~ will depend on decisions made by ~~[prison and]~~ parole  
 1-57 authorities.  
 1-58 "You may consider the existence of the parole law ~~[and good~~  
 1-59 ~~conduct time. However, you are not to consider the extent to which~~  
 1-60 ~~good conduct time may be awarded to or forfeited by this particular~~  
 1-61 ~~defendant]~~. You are not to consider the manner in which the parole

2-1 law may be applied to this particular defendant."

2-2 (b) In the penalty phase of the trial of a felony case in  
2-3 which the punishment is to be assessed by the jury rather than the  
2-4 court, if the offense is punishable as a felony of the first degree,  
2-5 if a prior conviction has been alleged for enhancement of  
2-6 punishment as provided by Section 12.42(b), (c)(1) or (2), or (d),  
2-7 Penal Code, or if the offense is a felony not designated as a  
2-8 capital felony or a felony of the first, second, or third degree and  
2-9 the maximum term of imprisonment that may be imposed for the offense  
2-10 is longer than 60 years, unless the offense of which the jury has  
2-11 found the defendant guilty is an offense that is punishable under  
2-12 Section 21.02(h), Penal Code, or is listed in Article 42A.054(a) or  
2-13 the judgment contains an affirmative finding under Article  
2-14 42A.054(c) or (d), the court shall charge the jury in writing as  
2-15 follows:

2-16 "The length of time for which a defendant is imprisoned may be  
2-17 reduced by the award of parole.

2-18 "Under the law applicable in this case, the defendant, if  
2-19 sentenced to a term of imprisonment, may earn early parole  
2-20 eligibility [~~time off the period of incarceration imposed~~] through  
2-21 the award of good conduct time. Prison authorities may award good  
2-22 conduct time to a prisoner who exhibits good behavior, diligence in  
2-23 carrying out prison work assignments, and attempts at  
2-24 rehabilitation. If a prisoner engages in misconduct, prison  
2-25 authorities may also take away all or part of any good conduct time  
2-26 earned by the prisoner.

2-27 [~~"It is also possible that the length of time for which the~~  
2-28 ~~defendant will be imprisoned might be reduced by the award of~~  
2-29 ~~parole.~~]

2-30 "Under the law applicable in this case, if the defendant is  
2-31 sentenced to a term of imprisonment, the defendant [~~he~~] will not  
2-32 become eligible for parole until the actual time served plus any  
2-33 good conduct time earned equals one-fourth of the sentence imposed  
2-34 or 15 years, whichever is less. Eligibility for parole does not  
2-35 guarantee that parole will be granted.

2-36 "It cannot accurately be predicted how the parole law and  
2-37 good conduct time might be applied to this defendant if [~~he is~~]  
2-38 sentenced to a term of imprisonment, because the application of  
2-39 these laws will depend on decisions made by prison and parole  
2-40 authorities.

2-41 "You may consider the existence of the parole law and good  
2-42 conduct time. However, you are not to consider the extent to which  
2-43 good conduct time may be awarded to or forfeited by this particular  
2-44 defendant. You are not to consider the manner in which the parole  
2-45 law may be applied to this particular defendant."

2-46 (c) In the penalty phase of the trial of a felony case in  
2-47 which the punishment is to be assessed by the jury rather than the  
2-48 court, if the offense is punishable as a felony of the second or  
2-49 third degree, if a prior conviction has been alleged for  
2-50 enhancement as provided by Section 12.42(a), Penal Code, or if the  
2-51 offense is a felony not designated as a capital felony or a felony  
2-52 of the first, second, or third degree and the maximum term of  
2-53 imprisonment that may be imposed for the offense is 60 years or  
2-54 less, unless the offense of which the jury has found the defendant  
2-55 guilty is listed in Article 42A.054(a) or the judgment contains an  
2-56 affirmative finding under Article 42A.054(c) or (d), the court  
2-57 shall charge the jury in writing as follows:

2-58 "The length of time for which a defendant is imprisoned may be  
2-59 reduced by the award of parole.

2-60 "Under the law applicable in this case, the defendant, if  
2-61 sentenced to a term of imprisonment, may earn early parole  
2-62 eligibility [~~time off the period of incarceration imposed~~] through  
2-63 the award of good conduct time. Prison authorities may award good  
2-64 conduct time to a prisoner who exhibits good behavior, diligence in  
2-65 carrying out prison work assignments, and attempts at  
2-66 rehabilitation. If a prisoner engages in misconduct, prison  
2-67 authorities may also take away all or part of any good conduct time  
2-68 earned by the prisoner.

2-69 [~~"It is also possible that the length of time for which the~~

3-1 ~~defendant will be imprisoned might be reduced by the award of~~  
3-2 ~~parole.]~~

3-3 "Under the law applicable in this case, if the defendant is  
3-4 sentenced to a term of imprisonment, the defendant [~~he~~] will not  
3-5 become eligible for parole until the actual time served plus any  
3-6 good conduct time earned equals one-fourth of the sentence imposed.  
3-7 Eligibility for parole does not guarantee that parole will be  
3-8 granted.

3-9 "It cannot accurately be predicted how the parole law and  
3-10 good conduct time might be applied to this defendant if [~~he is~~]  
3-11 sentenced to a term of imprisonment, because the application of  
3-12 these laws will depend on decisions made by prison and parole  
3-13 authorities.

3-14 "You may consider the existence of the parole law and good  
3-15 conduct time. However, you are not to consider the extent to which  
3-16 good conduct time may be awarded to or forfeited by this particular  
3-17 defendant. You are not to consider the manner in which the parole  
3-18 law may be applied to this particular defendant."

3-19 SECTION 2. The change in law made by this Act applies to a  
3-20 defendant sentenced for an offense on or after the effective date of  
3-21 this Act, regardless of when the offense was committed.

3-22 SECTION 3. This Act takes effect September 1, 2019.

3-23

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