

By: Lucio

S.B. No. 2113

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the consideration of the views of a close relative of a
3 deceased victim regarding the imposition of the death penalty in a
4 capital case.

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

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

8 (1) If a defendant is tried for a capital offense in
9 which the state seeks the death penalty, on a finding that the
10 defendant is guilty of a capital offense, the court shall conduct a
11 separate sentencing proceeding to determine whether the defendant
12 shall be sentenced to death or life imprisonment without parole.
13 The proceeding shall be conducted in the trial court and, except as
14 provided by Article 44.29(c) [~~of this code~~], before the trial jury
15 as soon as practicable. In the proceeding, evidence may be
16 presented by the state and the defendant or the defendant's counsel
17 as to any matter that the court considers [~~deems~~] relevant to
18 sentence, including evidence of the defendant's background or
19 character or the circumstances of the offense that mitigates
20 against the imposition of the death penalty and evidence of the
21 views of a close relative of a deceased victim, as defined by
22 Article 56A.001, regarding the imposition of the death penalty in
23 the case. This subdivision does [~~shall~~] not [~~be construed to~~]
24 authorize the introduction of any evidence secured in violation of

1 the Constitution of the United States or of the State of Texas. The
2 state and the defendant or the defendant's counsel shall be
3 permitted to present argument for or against sentence of death. The
4 introduction of evidence of extraneous conduct is governed by the
5 notice requirements of Section 3(g), Article 37.07. The court, the
6 attorney representing the state, the defendant, or the defendant's
7 counsel may not inform a juror or a prospective juror of the effect
8 of a failure of a jury to agree on issues submitted under Subsection
9 (c) or (e).

10 SECTION 2. Section 2(d), Article 37.071, Code of Criminal
11 Procedure, is amended to read as follows:

12 (d) The court shall charge the jury that:

13 (1) in deliberating on the issues submitted under
14 Subsection (b) [~~of this article~~], it shall consider all evidence
15 admitted at the guilt or innocence stage and the punishment stage,
16 including evidence of the defendant's background or character or
17 the circumstances of the offense that militates for or mitigates
18 against the imposition of the death penalty and evidence of the
19 views of a close relative of a deceased victim, as defined by
20 Article 56A.001, regarding the imposition of the death penalty in
21 the case;

22 (2) it may not answer any issue submitted under
23 Subsection (b) of this article "yes" unless it agrees unanimously
24 and it may not answer any issue "no" unless 10 or more jurors agree;
25 and

26 (3) members of the jury need not agree on what
27 particular evidence supports a negative answer to any issue

1 submitted under Subsection (b) [~~of this article~~].

2 SECTION 3. Section 2(e)(1), Article 37.071, Code of
3 Criminal Procedure, is amended to read as follows:

4 (1) The court shall instruct the jury that if the jury
5 returns an affirmative finding to each issue submitted under
6 Subsection (b), it shall answer the following issue:

7 Whether, taking into consideration all of the evidence,
8 including the circumstances of the offense, the defendant's
9 character and background, [~~and~~] the personal moral culpability of
10 the defendant, and the views of a close relative of a deceased
11 victim, as defined by Article 56A.001, regarding the imposition of
12 the death penalty in the case, there is a sufficient mitigating
13 circumstance or circumstances to warrant that a sentence of life
14 imprisonment without parole rather than a death sentence be
15 imposed.

16 SECTION 4. The change in law made by this Act applies only
17 to a criminal proceeding that commences on or after the effective
18 date of this Act. A criminal proceeding that commenced before the
19 effective date of this Act is governed by the law in effect on the
20 date the proceeding commenced, and the former law is continued in
21 effect for that purpose.

22 SECTION 5. This Act takes effect September 1, 2021.