

By: Moody

H.B. No. 188

A BILL TO BE ENTITLED

AN ACT

relating to certain sentencing procedures in a capital case.

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

SECTION 1. Sections 2(d) and (f), Article 37.071, Code of Criminal Procedure, are amended to read as follows:

(d) The court shall charge the jury that:

(1) in deliberating on the issues submitted under Subsection (b) ~~[of this article]~~, the jury ~~[it]~~ shall consider all evidence admitted at the guilt or innocence stage and the punishment stage, including evidence of the defendant's background or character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty;

(2) the jury ~~[it]~~ may not answer any issue submitted under Subsection (b) ~~[of this article]~~ "yes" unless the jury ~~[it]~~ agrees unanimously, and unless the jury answers an issue "yes" unanimously, the jury shall ~~[it may not]~~ answer the ~~[any]~~ issue "no" ~~[unless 10 or more jurors agree]~~; and

(3) members of the jury need not agree on what particular evidence supports a negative answer to any issue submitted under Subsection (b) ~~[of this article]~~.

(f) The court shall charge the jury that in answering the issue submitted under Subsection (e) ~~[of this article]~~, the jury:

(1) shall answer the issue "yes" or "no";

(2) may not answer the issue "no" unless the jury ~~[it]~~

1 agrees unanimously, and unless the jury answers the issue "no"  
2 unanimously, the jury shall [~~may not~~] answer the issue "yes"  
3 [~~unless 10 or more jurors agree~~];

4 (3) need not agree on what particular evidence  
5 supports an affirmative finding on the issue; and

6 (4) shall consider mitigating evidence to be evidence  
7 that a juror might regard as reducing the defendant's moral  
8 blameworthiness.

9 SECTION 2. The change in law made by this Act applies only  
10 to a criminal proceeding that commences on or after the effective  
11 date of this Act. A criminal proceeding that commenced before the  
12 effective date of this Act is governed by the law in effect on the  
13 date the proceeding commenced, and the former law is continued in  
14 effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2023.