

CHAPTER 576

S.B. No. 37

An Act relating to jury instructions on parole and good conduct time credit; adding Section 4 to Article 37.07, Code of Criminal Procedure, 1965.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 37.07, Code of Criminal Procedure, 1965, is amended by adding Section 4 to read as follows:

“Section 4. (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 listed in Section 3f(a)(1), Article 42.12, of this code or if the judgment contains an affirmative finding under Section 3f(a)(2), Article 42.12, of this code, unless the defendant has been convicted of 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 sentence 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 part of any good conduct time earned by the prisoner.

“It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

“Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-third of the sentence imposed or 20 years, whichever is less, without consideration of any good conduct time he may earn. If the defendant is sentenced to a term of less than six years, he must serve at least two years before he is eligible for parole. Eligibility for parole does not guarantee that parole will be granted.

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

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

“(b) 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 is punishable as a felony of the first degree, if a prior conviction has been alleged for enhancement of punishment as provided by Section 12.42(b), (c), or (d), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree and the maximum term of imprisonment that may be imposed for the offense is longer than 60 years, unless the offense of which the jury has found the defendant guilty is listed in Section 3f(a)(1), Article 42.12, of this code or the judgment contains an affirmative finding under Section 3f(a)(2), Article 42.12, of this code, 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 sentence 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 part of any good conduct time earned by the prisoner.

“It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

“Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served plus any good conduct time earned equals one-third of the sentence imposed or 20 years, whichever is less. Eligibility for parole does not guarantee that parole will be granted.

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

“You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this

particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant.'

“(c) 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 is punishable as a felony of the second or third degree, if a prior conviction has been alleged for enhancement as provided by Section 12.42(a), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree and the maximum term of imprisonment that may be imposed for the offense is 60 years or less, unless the offense of which the jury has found the defendant guilty is listed in Section 3f(a)(1), Article 42.12, of this code or the judgment contains an affirmative finding under Section 3f(a)(2), Article 42.12, of this code, 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 sentence 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 part of any good conduct time earned by the prisoner.

“It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

“Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served plus any good conduct time earned equals one-third of the sentence imposed. Eligibility for parole does not guarantee that parole will be granted.

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

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

“(d) This section does not permit the introduction of evidence on the operation of parole and good conduct time laws.”

SECTION 2. This Act takes effect September 1, 1985.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 3, 1985, by a viva-voce vote; May 10, 1985, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 15, 1985, House granted request of the Senate; May 24, 1985, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 2, 1985, by a non-record vote; May 15, 1985, House granted request of the Senate for appointment of Conference Committee; May 26, 1985, House adopted Conference Committee Report by a non-record vote.

Approved: June 13, 1985

Effective: September 1, 1985