

CHAPTER 519

H.B. No. 679

AN ACT

relating to the order of proceedings in a criminal trial.

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

SECTION 1. Article 36.01, Code of Criminal Procedure, is amended to read as follows:

Art. 36.01. ORDER OF PROCEEDING IN TRIAL. (a) A jury being impaneled in any criminal action, *except as provided by Subsection (b) of this article*, the cause shall proceed in the following order:

1. The indictment or information shall be read to the jury by the attorney prosecuting. When prior convictions are alleged for purposes of enhancement only and are not jurisdictional, that portion of the indictment or information reciting such convictions shall not be read until the hearing on punishment is held as provided in Article 37.07.
2. The special pleas, if any, shall be read by the defendant's counsel, and if the plea of not guilty is also relied upon, it shall also be stated.
3. The State's attorney shall state to the jury the nature of the accusation and the facts which are expected to be proved by the State in support thereof.
4. The testimony on the part of the State shall be offered.
5. The nature of the defenses relied upon and the facts expected to be proved in their support shall be stated by defendant's counsel.
6. The testimony on the part of the defendant shall be offered.
7. Rebutting testimony may be offered on the part of each party.
8. In the event of a finding of guilty, the trial shall then proceed as set forth in Article 37.07.

(b) The defendant's counsel may make the opening statement for the defendant immediately after the attorney representing the State makes the opening statement for the State. After the defendant's attorney concludes the defendant's opening statement, the State's testimony shall be offered. At the conclusion of the presentation of the State's testimony, the defendant's testimony shall be offered, and the order of proceedings shall continue in the manner described by Subsection (a) of this article.

SECTION 2. The change in law made by this Act applies only to a case in which the indictment or information is read to the jury on or after the effective date of this Act. If the indictment or information is read to the jury before the effective date of this Act, the order of proceedings in the trial in effect on the date of the reading applies, and the former law continues in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. 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 by the House on April 30, 1987, by a non-record vote. Passed by the Senate on May 23, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Sept. 1, 1987.