

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 811

BY: CAIN

AS INTRODUCED

AN ACT RELATING TO MINORS; AMENDING 21 O.S. 1991,
SECTION 701.10, WHICH RELATES TO SENTENCING
PROCEEDINGS FOR MURDER IN THE FIRST DEGREE;
PROHIBITING DEATH PENALTY FOR MINORS; AND DECLARING
AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 701.10, is amended to read as follows:

Section 701.10 A. Upon conviction or adjudication of guilt of a defendant of murder in the first degree, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death, life imprisonment without parole or life imprisonment. The proceeding shall be conducted by the trial judge before the same trial jury as soon as practicable without presentence investigation.

B. If the trial jury has been waived by the defendant and the state, or if the defendant pleaded guilty or nolo contendere, the sentencing proceeding shall be conducted before the court.

C. In the sentencing proceeding, evidence may be presented as to any mitigating circumstances or as to any of the aggravating circumstances enumerated in Section 701.7 et seq. of this title.

Only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible.

D. This section shall not be construed to authorize the introduction of any evidence secured in violation of the Constitutions of the United States or of the State of Oklahoma. The state and the defendant or his counsel shall be permitted to present argument for or against sentence of death.

E. Every defendant aged seventeen (17) years or younger at the time of the commission of the offense of murder in the first degree, upon conviction or adjudication of guilt, shall not be sentenced to death, but shall be sentenced to either life imprisonment without parole or life imprisonment.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-1386

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