

ENGROSSED HOUSE
BILL NO. 2803

By: Paulk and Breckinridge
of the House

and

Brown of the Senate

An Act relating to crimes and punishments; amending
21 O.S. 1991, Section 701.10, as amended by Section
1, Chapter 67, O.S.L. 1992 (21 O.S. Supp. 1995,
Section 701.10), which relates to the sentencing
proceeding for murder in the first degree;
providing for sentencing proceeding if no bill of
particulars has been filed; providing for
presentation of certain evidence; and providing an
effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 701.10, as
amended by Section 1, Chapter 67, O.S.L. 1992 (21 O.S. Supp. 1995,
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~~ the:

1. If a bill of particulars has been filed, 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; and

2. If no bill of particulars has been filed prior to the commencement of trial, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to 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, whether or not a bill of particulars has been filed prior to the commencement of trial, evidence may be presented as to any mitigating circumstances or as to any of the aggravating circumstances enumerated in ~~Section~~ Sections 701.7 et seq. through 701.12 of this title. Only such evidence in aggravation as the state has made known to the defendant prior to ~~his~~ the trial shall be admissible. In addition, the state may introduce evidence about the victim and about the impact of the murder on the family of the victim.

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 for the defendant shall be permitted to present argument for or against sentence of death.

SECTION 2. This act shall become effective November 1, 1996.

Passed the House of Representatives the 5th day of March, 1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President

of the Senate