

1 ENGROSSED SENATE  
2 BILL NO. 1036

By: Sykes of the Senate

3 and

4 Biggs of the House

5  
6  
7 An Act relating to sentencing proceedings; amending  
8 21 O.S. 2011, Section 701.10, which relates to murder  
9 in the first degree; modifying sentencing proceeding  
10 requirements for certain convictions; providing for  
11 codification; and providing an effective date.

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

13 SECTION 1. AMENDATORY 21 O.S. 2011, Section 701.10, is  
14 amended to read as follows:

15 Section 701.10. A. Upon conviction or adjudication of guilt of  
16 a defendant of murder in the first degree, wherein the state is  
17 seeking the death penalty, the court shall conduct a separate  
18 sentencing proceeding to determine whether the defendant should be  
19 sentenced to death, life imprisonment without parole or life  
20 imprisonment. The proceeding shall be conducted by the trial judge  
21 before the same trial jury as soon as practicable without  
22 presentence investigation.

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

4 C. In the sentencing proceeding, evidence may be presented as  
5 to any mitigating circumstances or as to any of the aggravating  
6 circumstances enumerated in Section 701.7 et seq. of this title.  
7 Only such evidence in aggravation as the state has made known to the  
8 defendant prior to his trial shall be admissible. In addition, the  
9 state may introduce evidence about the victim and about the impact  
10 of the murder on the family of the victim.

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

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 701.10-1 of Title 21, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. Upon conviction or adjudication of guilt of a defendant of  
20 murder in the first degree, wherein the state is not seeking the  
21 death penalty but has alleged that the defendant has prior felony  
22 convictions, the court shall conduct a separate sentencing  
23 proceeding to determine whether the defendant should be sentenced to  
24 life imprisonment without parole or life imprisonment, wherein the

1 state shall be given the opportunity to prove any prior felony  
2 convictions beyond a reasonable doubt. The proceeding shall be  
3 conducted by the trial judge before the same trial jury as soon as  
4 practicable without presentence investigation.

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

8 SECTION 3. This act shall become effective November 1, 2013.

9 Passed the Senate the 4th day of March, 2013.

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11 \_\_\_\_\_  
12 Presiding Officer of the Senate

13 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
14 2013.

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17 Presiding Officer of the House  
18 of Representatives