HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

ENGROSSED SENATE
BILL NO. 1036 By: Sykes of the Senate

and

Biggs of the House

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

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

SECTION 1. AMENDATORY 21 O.S. 2011, 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, <u>wherein the state is seeking the death penalty,</u> 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

<u>UNDERLINED</u> language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

A. Upon conviction or adjudication of guilt of a defendant of murder in the first degree, wherein the state is not seeking the death penalty but has alleged that the defendant has prior felony

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convictions, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to life imprisonment without parole or life imprisonment, wherein the state shall be given the opportunity to prove any prior felony convictions beyond a reasonable doubt. 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.

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

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/19/2013 - DO PASS.

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