**T.P.I. -- CRIM. 43.03(b)**

**DEFENDANT: NOT TESTIFYING DURING THE SENTENCING HEARING**

The defendant has not taken the stand to testify as a witness during the sentencing hearing but you shall place no significance on this fact. The burden is on the state to prove any aggravating circumstance or circumstances beyond a reasonable doubt **[only if the jury is considering a sentence of death:** and that said circumstance or circumstances have been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt**]**. *[He] [She]* is not required to take the stand in *[his] [her]* own behalf and *[his] [her]* election not to do so cannot be considered for any purpose against *[him] [her]*, nor can any inference be drawn from such fact.