

By: Smithee, Collier, Moody

H.B. No. 1293

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a court to grant a motion for a new trial in certain criminal cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 40, Code of Criminal Procedure, is amended by adding Article 40.002 to read as follows:

Art. 40.002. NEW TRIAL ON MOTION BY AGREEMENT OF PARTIES.

(a) Notwithstanding any other law, at any time during the period of a term of imprisonment, a defendant may, with the written consent of the district attorney, criminal district attorney, or county attorney with criminal jurisdiction, file a motion for a new trial with the convicting court. The motion must include an agreed statement of facts for the court to consider.

(b) The court may, after a hearing, grant the defendant a new trial in the interest of justice for any of the following reasons:

(1) the discovery of exculpatory, mitigating, or impeachment evidence that establishes that the defendant's conviction or sentence is against the weight of the evidence;

(2) a change in law that provides a new legal basis for a defense to criminal prosecution for the offense of which the defendant was convicted or a ruling of the United States Supreme Court or the Texas Court of Criminal Appeals that the law under which the defendant was convicted or sentenced is unconstitutional;

1           (3) that material evidence was improperly admitted or  
2 withheld from the jury; or

3           (4) that the agreed statement of facts establishes a  
4 ground for which a new trial must be granted under the Texas Rules  
5 of Appellate Procedure.

6           (b-1) The court may rely on the agreed statement in granting  
7 a new trial, and the agreed statement may constitute the entire  
8 record in the cause.

9           (c) The rights of appeal provided by Chapter 44 apply to a  
10 decision of a court to grant a new trial under this article, except  
11 that neither the attorney representing the state nor the defendant  
12 is entitled to appeal the court's decision to deny a motion for a  
13 new trial.

14           (d) The attorney representing the state may condition the  
15 attorney's consent to a motion for a new trial on any appropriate  
16 reason, including a requirement that the defendant:

17                   (1) plead guilty and accept a specific punishment;

18                   (2) waive the defendant's parole eligibility as part  
19 of any punishment agreement; or

20                   (3) waive the defendant's right to appeal.

21           (e) Until the trial court has granted the motion under this  
22 article, the defendant may withdraw the motion or the attorney  
23 representing the state may withdraw consent to the motion. If the  
24 motion or consent is withdrawn, the court is prohibited from  
25 granting a new trial in the case based on that motion.

26           SECTION 2. This Act takes effect September 1, 2021.