

By: Cook

H.B. No. 4518

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 41 to read as follows:

CHAPTER 41. RESENTENCING

Art. 41.001. RESENTENCING ON MOTION BY AGREEMENT OF PARTIES. (a) In this article, "attorney representing the state" means a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction.

(b) This article does not apply to an inmate who is serving a sentence for an offense listed in Article 42A.054(a) or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d).

(c) Notwithstanding any other law, at any time during the period of a term of imprisonment, an inmate may, with the written consent of the attorney representing the state, file a motion for resentencing with the convicting court. The motion must include an agreed statement of facts for the court to consider.

(d) The court may, after a hearing, grant a motion for resentencing in the interest of justice. The court may rely on the agreed statement of facts in granting the motion, and the agreed statement may constitute the entire record in the cause.

1 (e) Neither the attorney representing the state nor the
2 inmate is entitled to appeal the court's decision to deny a motion
3 for resentencing.

4 (f) The attorney representing the state may condition the
5 attorney's consent to a motion for resentencing on any appropriate
6 reason, including a requirement that the inmate:

7 (1) accept a specific punishment;

8 (2) waive the inmate's parole eligibility as part of
9 any punishment agreement; or

10 (3) waive the inmate's right to appeal.

11 (g) Until the court has granted the motion under this
12 article, the inmate may withdraw the motion or the attorney
13 representing the state may withdraw consent to the motion. If the
14 motion or consent is withdrawn, the court is prohibited from
15 granting a resentencing in the case based on that motion.

16 (h) In determining whether to grant the motion, the court
17 may consider:

18 (1) the inmate's disciplinary record and record of
19 rehabilitation while imprisoned;

20 (2) evidence that reflects whether the inmate's age,
21 time served, or diminished physical condition has reduced the
22 inmate's risk for committing an offense in the future; and

23 (3) evidence that reflects any change in the inmate's
24 circumstances since the original sentencing such that the inmate's
25 continued imprisonment is no longer in the interest of justice.

26 (i) If the court grants the motion, the court may reduce the
27 sentence, including by reducing the sentence to time served and

1 ordering the inmate's immediate release.

2 (j) Notwithstanding any other law, if at the time of
3 resentencing, the minimum punishment for the offense is less than
4 that in effect at the time of the offense, the court may reduce an
5 inmate's sentence to a term that is less than the statutory minimum
6 for the offense that existed at the time of the offense.

7 (k) The court may not increase a sentence under this
8 article.

9 (l) The Texas Rules of Appellate Procedure apply to all
10 hearings and orders under this article.

11 SECTION 2. This Act takes effect January 1, 2024, but only
12 if the constitutional amendment proposed by the 88th Legislature,
13 Regular Session, 2023, authorizing the legislature to enact laws
14 providing for a court to grant a commutation of punishment to
15 certain individuals serving a term of imprisonment is approved by
16 the voters. If that amendment is not approved by the voters, this
17 Act has no effect.