

By: Dunnam

H.B. No. 1183

A BILL TO BE ENTITLED

AN ACT

relating to a defendant's right to appeal after a plea bargain and to notice of the appeal.

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

SECTION 1. Article 44.02, Code of Criminal Procedure, is amended to read as follows:

Art. 44.02. DEFENDANT MAY APPEAL. (a) A defendant in any criminal action has the right of appeal under the rules hereinafter prescribed. ~~[, provided, however, before the]~~

(b) If a defendant is ~~[who has been]~~ convicted upon either a ~~[his]~~ plea of guilty or a plea of nolo contendere before the court and the court, upon the election of the defendant, assesses punishment, and the punishment does not exceed the punishment recommended by the prosecutor and agreed to by the defendant and the defendant's ~~[his]~~ attorney, the defendant may prosecute an ~~[his]~~ appeal only on those issues which: ~~[~~

(1) ~~[he must have permission of]~~ the trial court has given the defendant permission to appeal; ~~[, except on those matters which]~~

(2) have been raised by written motion filed prior to trial;

(3) assert a jurisdictional defect in the trial court;
or

(4) attack the voluntariness of the defendant's plea.

1 (c) In all cases, a notice of appeal that shows the
2 defendant's desire to appeal is sufficient to invoke the
3 jurisdiction of the court of appeals.

4 (d) This article in no way affects appeals pursuant to
5 Article 37.071 or [Article] 44.17 [of this chapter].

6 SECTION 2. (a) This Act takes effect September 1, 2003.

7 (b) The change in law made by this Act applies only to a
8 judgment of conviction that is entered by the court on or after the
9 effective date of this Act. The appeal of a judgment entered before
10 the effective date of this Act is covered by the law in effect when
11 the judgment was entered, and the former law is continued in effect
12 for that purpose.