

BILL ANALYSIS

Senate Research Center

S.B. 60
By: Lucio et al.
Criminal Justice
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In Texas, a jury does not have the option of sentencing an individual convicted of a capital offense to life without parole. Under current law, a jury in a capital offense trial can either sentence a person to death or give the person a life sentence under which the person can become eligible for parole in 40 years.

S.B. 60 gives Texas juries a third option by adding life without parole to the available sentencing options for all capital felony cases, including those cases in which the prosecution does not seek the death penalty. This bill enables a jury to assess a defendant in a capital offense case to death, to a life sentence, or to a life sentence without parole.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the court of criminal appeals is modified in SECTION 13 (Section 2(d), Article 11.071, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.31, Penal Code, to include imprisonment for life without parole, in addition to the death penalty, as a permitted method of punishment for an individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty. Makes conforming changes.

SECTION 2. Amends Section 8.07(c), Penal Code, to prohibit any person, in any case, from being punished by death for an offense committed while the person was younger than 18, rather than 17, years. Makes a nonsubstantive change.

SECTION 3. Amends Section 508.046, Government Code, to delete existing text making this section applicable to a inmate who was convicted of a capital felony.

SECTION 4. Amends Sections 508.145(a) and (c), Government Code, as follows:

(a) Prohibits an inmate serving a sentence of life imprisonment without parole from being eligible for release on parole.

(c) Deletes existing text making Subsection (c) applicable to only an inmate serving a life sentence.

SECTION 5. Amends Sections 508.146(a) and (f), Government Code, to make conforming changes.

SECTION 6. Amends Section 1, Article 37.071, Code of Criminal Procedure, to make a conforming change.

SECTION 7. Amends Section 2(a)(1), Article 37.071, Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 8. Amends Section 2(e), Article 37.071, Code of Criminal Procedure, to set forth certain required duties of the court. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Section (2)(g), Article 37.071, Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 10. Amends Articles 44.251(a) and (b), Code of Criminal Procedure, as follows:

- (a) Makes a conforming and nonsubstantive change. Deletes existing text relating to former statutes that applied to this subsection.
- (b) Makes conforming changes.

SECTION 11. Amends Chapter 44, Code of Criminal Procedure, by adding Article 44.2511, as follows:

Art. 44.2511. REFORMATION OF SENTENCE IN CAPITAL CASE FOR OFFENSE COMMITTED BEFORE SEPTEMBER 1, 1991. (a) Provides that this article applies to the reformation of a sentence of death in a capital case for an offense committed before September 1, 1991. Provides that, for purposes of this subsection, an offense is committed before September 1, 1991, if every element of the offense occurred before that date.

(b) Requires the court of criminal appeals to reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice (TDCJ) for life if the court finds that there is legally insufficient evidence to support an affirmative answer to an issue submitted to the jury under Section 3(b), Article 37.0711.

(c) Requires the court of criminal appeals to reform a sentence of death to a sentence of confinement in the institutional division of TDCJ for life if certain conditions are present.

(d) Requires the defendant, if the court of criminal appeals finds reversible error that affects the punishment stage of the trial only, as described by Subsection (c), and the prosecuting attorney does not file a motion for reformation of sentence in the period described by that subsection, to receive a new sentencing trial in the manner required by Article 44.29(c).

SECTION 12. Repealer: Section 508.145(b) (relating to the eligibility for parole of an inmate serving a life sentence), Government Code.

SECTION 13. Amends Section 2(d), Article 11.071, Code of Criminal Procedure, to require the rules to require that an attorney appointed as lead counsel under this section not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.

SECTION 14. Amends Article 26.052(d), Code of Criminal Procedure, to amend the standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases adopted by the local selection committee in this subsection.

SECTION 15. Requires the court of criminal appeals to amend rules adopted under Section 2(d), Article 11.071, Code of Criminal Procedure, as necessary to comply with that subsection, as amended by this Act, not later than January 1, 2006.

SECTION 16. Requires a local selection committee to amend standards previously adopted by the committee to conform with the requirements of Article 26.052(d), Code of Criminal Procedure, as amended by this Act, not later than the 75th day after the effective date of this Act. Requires an attorney appointed to a death penalty case on or after the 75th day after the effective date of this Act to meet the standards adopted in conformity with the amended Article 26.052(d). Provides that an attorney appointed to a death penalty case before the 75th day after the effective date of this Act is covered by the law in effect when the attorney was appointed, and the former law is continued in effect for that purpose.

SECTION 17. Makes application of this Act prospective.

SECTION 18. Effective date: September 1, 2005.