

BILL ANALYSIS

C.S.S.B. 60
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a capital murder conviction is punishable by either death or a life sentence under which the person can become eligible for parole in 40 years. C.S.S.B. 60 eliminates life with the possibility of parole in a capital case and creates a new life without parole sentence for capital defendants who do not receive the death penalty.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority previously granted to the Court of Criminal Appeals has been modified in SECTION 24 (Article 11.071, Code of Criminal Procedure) of this bill.

ANALYSIS

C.S.S.B. 60 creates a life without parole sentence for persons convicted of capital murder while removing the sentence of life with the eligibility for parole. This change leaves two punishment possibilities for a defendant who stands convicted of capital murder: life without parole or death. The bill further removes life with parole from any possible sentence for any offense. For example, this change would require a person convicted of a first degree felony to be sentenced to anywhere from 5 to 99 years, rather than for life or for any term of not more than 99 years or less than 5 years. The bill makes further conforming changes.

The bill also ensures that an attorney appointed as lead counsel to a death penalty case has not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of a prior criminal case. This also extends to an attorney appointed as lead appellate counsel in the direct appeal of a death penalty case.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original bill by removing life with parole from any possible sentence for any offense. The substitute also enhances the requirements for counsel representing indigent defendants in capital cases. The substitute also no longer addresses medical release or deportation.