

By: Lucio, et al.

S.B. No. 60

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for a capital offense.

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

SECTION 1. Section 508.046, Government Code, is amended to read as follows:

Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on parole an inmate who was convicted of [~~a capital felony or~~] an offense under Section 21.11(a)(1) or 22.021, Penal Code, or who is required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

SECTION 2. Subsection (b), Section 508.145, Government Code, is amended to read as follows:

(b) An inmate serving a life sentence for a capital felony is not eligible for release on parole [~~until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years~~].

SECTION 3. Subsection (e), Section 2, Article 37.071, Code of Criminal Procedure, is amended to read as follows:

1 (e)(1) The court shall instruct the jury that if the jury
2 returns an affirmative finding to each issue submitted under
3 Subsection (b) of this article, it shall answer the following
4 issue:

5 Whether, taking into consideration all of the evidence,
6 including the circumstances of the offense, the defendant's
7 character and background, and the personal moral culpability of the
8 defendant, there is a sufficient mitigating circumstance or
9 circumstances to warrant that a sentence of life imprisonment
10 rather than a death sentence be imposed.

11 (2) The court [~~, on the written request of the attorney~~
12 ~~representing the defendant,~~] shall:

13 (A) instruct the jury that if the jury answers
14 that a circumstance or circumstances warrant that a sentence of
15 life imprisonment rather than a death sentence be imposed, the
16 court will sentence the defendant to imprisonment in the
17 institutional division of the Texas Department of Criminal Justice
18 for life; and

19 (B) charge the jury in writing as follows:

20 "Under the law applicable in this case, if the defendant is
21 sentenced to imprisonment in the institutional division of the
22 Texas Department of Criminal Justice for life, the defendant will
23 not become eligible for release on parole or mandatory
24 supervision [~~, but not until the actual time served by the defendant~~
25 ~~equals 40 years, without consideration of any good conduct time. It~~
26 ~~cannot accurately be predicted how the parole laws might be applied~~
27 ~~to this defendant if the defendant is sentenced to a term of~~

1 ~~imprisonment for life because the application of those laws will~~
2 ~~depend on decisions made by prison and parole authorities, but~~
3 ~~eligibility for parole does not guarantee that parole will be~~
4 ~~granted]."~~

5 SECTION 4. Subsections (a) and (f), Section 508.146,
6 Government Code, are amended to read as follows:

7 (a) An inmate, other than an inmate who is serving a
8 sentence of death or life without parole or an inmate who has a
9 reportable conviction or adjudication under Chapter 62, Code of
10 Criminal Procedure, may be released on medically recommended
11 intensive supervision on a date designated by a parole panel
12 described by Subsection (e), except that an inmate with an instant
13 offense that is an offense described in Section 3g, Article 42.12,
14 Code of Criminal Procedure, may only be considered if a medical
15 condition of terminal illness or long-term care has been diagnosed,
16 if:

17 (1) the Texas Correctional Office on Offenders with
18 Medical or Mental Impairments, in cooperation with the Correctional
19 Managed Health Care Committee, identifies the inmate as being
20 elderly, physically disabled, mentally ill, terminally ill, or
21 mentally retarded or having a condition requiring long-term care;

22 (2) the parole panel determines that, based on the
23 inmate's condition and a medical evaluation, the inmate does not
24 constitute a threat to public safety; and

25 (3) the Texas Correctional Office on Offenders with
26 Medical or Mental Impairments, in cooperation with the pardons and
27 paroles division, has prepared for the inmate a medically

1 recommended intensive supervision plan that requires the inmate to
2 submit to electronic monitoring, places the inmate on
3 super-intensive supervision, or otherwise ensures appropriate
4 supervision of the inmate.

5 (f) An inmate who is not a citizen of the United States, as
6 defined by federal law, who is not under a sentence of death or life
7 without parole, and who does not have a reportable conviction or
8 adjudication under Chapter 62, Code of Criminal Procedure, or an
9 instant offense described in Section 3g, Article 42.12, Code of
10 Criminal Procedure, may be released to immigration authorities
11 pending deportation on a date designated by a parole panel
12 described by Subsection (e) if the parole panel determines that on
13 release the inmate would be deported to another country and that the
14 inmate does not constitute a threat to public safety in the other
15 country or this country and is unlikely to reenter this country
16 illegally.

17 SECTION 5. (a) The change in law made by this Act applies
18 only to an offense committed on or after the effective date of this
19 Act. For purposes of this section, an offense is committed before
20 the effective date of this Act if any element of the offense occurs
21 before the effective date.

22 (b) An offense committed before the effective date of this
23 Act is covered by the law in effect when the offense was committed,
24 and the former law is continued in effect for that purpose.

25 SECTION 6. This Act takes effect September 1, 2005.