

By: Dutton

H.B. No. 304

A BILL TO BE ENTITLED

AN ACT

relating to the extent of a defendant's criminal responsibility for the conduct of a co-conspirator in certain felony cases.

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

SECTION 1. Section 1, Article 37.071, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. (a) If a defendant is found guilty in a capital felony case in which the state does not seek the death penalty, the judge shall sentence the defendant to life imprisonment without parole.

(b) A defendant who is found guilty in a capital felony case only as a party under Section 7.02(b), Penal Code, may not be sentenced to death, and the state may not seek the death penalty in any case in which the defendant's liability is based solely on that section.

SECTION 2. Section 2, Article 37.0711, Code of Criminal Procedure, is amended to read as follows:

Sec. 2. (a) If a defendant is found guilty in a case in which the state does not seek the death penalty, the judge shall sentence the defendant to life imprisonment.

(b) A defendant who is found guilty in a capital felony case only as a party under Section 7.02(b), Penal Code, may not be sentenced to death, and the state may not seek the death penalty in any case in which the defendant's liability is based solely on that

1 section.

2           SECTION 3. The change in law made by this Act applies to a  
3 criminal proceeding that commences on or after the effective date  
4 of this Act. A criminal proceeding that commences before the  
5 effective date of this Act is governed by the law in effect when the  
6 proceeding commenced, and the former law is continued in effect for  
7 that purpose.

8           SECTION 4. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2009.