

By: Hinojosa

S.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for a capital felony committed by a juvenile whose case is transferred to criminal court.

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

SECTION 1. Section 12.31, Penal Code, is amended to read as follows:

Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty shall be punished by imprisonment in the Texas Department of Criminal Justice [~~institutional division~~] for life without parole or by death. An individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty shall be punished by imprisonment in the Texas Department of Criminal Justice [~~institutional division~~] for:

(1) life, if the individual's case was transferred to the court under Section 54.02, Family Code; or

(2) life without parole.

(b) In a capital felony trial in which the state seeks the death penalty, prospective jurors shall be informed that a sentence of life imprisonment without parole or death is mandatory on conviction of a capital felony. In a capital felony trial in which the state does not seek the death penalty, prospective jurors shall be informed that the state is not seeking the death penalty and that:

1 (1) a sentence of life imprisonment is mandatory on
2 conviction of the capital felony, if the case was transferred to the
3 court under Section 54.02, Family Code; or

4 (2) a sentence of life imprisonment without parole is
5 mandatory on conviction of the capital felony.

6 SECTION 2. Section 508.145, Government Code, is amended by
7 adding Subsection (b) and amending Subsection (d) to read as
8 follows:

9 (b) Except as provided by Subsection (d), an inmate serving
10 a life sentence under Section 12.31(a)(1), Penal Code, for a
11 capital felony is not eligible for release on parole until the
12 actual calendar time the inmate has served, without consideration
13 of good conduct time, equals 40 calendar years.

14 (d) An inmate serving a life sentence under Section
15 12.31(a)(1), Penal Code, for a capital felony who was found guilty
16 as a party to the offense under Section 7.01 or 7.02, Penal Code, or
17 serving a sentence for an offense described by Section 3g(a)(1)(A),
18 (C), (D), (E), (F), (G), (H), or (I), Article 42.12, Code of
19 Criminal Procedure, or for an offense for which the judgment
20 contains an affirmative finding under Section 3g(a)(2) of that
21 article, is not eligible for release on parole until the inmate's
22 actual calendar time served, without consideration of good conduct
23 time, equals one-half of the sentence or 30 calendar years,
24 whichever is less, but in no event is the inmate eligible for
25 release on parole in less than two calendar years.

26 SECTION 3. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 covered by the law in effect when the offense was committed, and the
3 former law is continued in effect for that purpose. For purposes of
4 this section, an offense was committed before the effective date of
5 this Act if any element of the offense occurred before that date.

6 SECTION 4. This Act takes effect September 1, 2009.