

1-1 By: Hinojosa S.B. No. 839  
1-2 (In the Senate - Filed February 13, 2009; March 4, 2009,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 March 19, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 19, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 839 By: Hinojosa

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the punishment for a capital felony committed by a  
1-11 juvenile whose case is transferred to criminal court.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 12.31, Penal Code, is amended to read as  
1-14 follows:

1-15 Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged  
1-16 guilty of a capital felony in a case in which the state seeks the  
1-17 death penalty shall be punished by imprisonment in the Texas  
1-18 Department of Criminal Justice [~~institutional division~~] for life  
1-19 without parole or by death. An individual adjudged guilty of a  
1-20 capital felony in a case in which the state does not seek the death  
1-21 penalty shall be punished by imprisonment in the Texas Department  
1-22 of Criminal Justice [~~institutional division~~] for:

1-23 (1) life, if the individual's case was transferred to  
1-24 the court under Section 54.02, Family Code; or

1-25 (2) life without parole.

1-26 (b) In a capital felony trial in which the state seeks the  
1-27 death penalty, prospective jurors shall be informed that a sentence  
1-28 of life imprisonment without parole or death is mandatory on  
1-29 conviction of a capital felony. In a capital felony trial in which  
1-30 the state does not seek the death penalty, prospective jurors shall  
1-31 be informed that the state is not seeking the death penalty and  
1-32 that:

1-33 (1) a sentence of life imprisonment is mandatory on  
1-34 conviction of the capital felony, if the case was transferred to the  
1-35 court under Section 54.02, Family Code; or

1-36 (2) a sentence of life imprisonment without parole is  
1-37 mandatory on conviction of the capital felony.

1-38 SECTION 2. Section 508.145, Government Code, is amended by  
1-39 adding Subsection (b) to read as follows:

1-40 (b) An inmate serving a life sentence under Section  
1-41 12.31(a)(1), Penal Code, for a capital felony is not eligible for  
1-42 release on parole until the actual calendar time the inmate has  
1-43 served, without consideration of good conduct time, equals 40  
1-44 calendar years.

1-45 SECTION 3. The change in law made by this Act applies only  
1-46 to an offense committed on or after the effective date of this Act.  
1-47 An offense committed before the effective date of this Act is  
1-48 covered by the law in effect when the offense was committed, and the  
1-49 former law is continued in effect for that purpose. For purposes of  
1-50 this section, an offense was committed before the effective date of  
1-51 this Act if any element of the offense occurred before that date.

1-52 SECTION 4. This Act takes effect September 1, 2009.

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