

By: Kolkhorst

H.B. No. 33

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment for a capital felony committed by an
3 individual younger than 18 years of age.

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

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

7 Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged
8 guilty of a capital felony in a case in which the state seeks the
9 death penalty shall be punished by imprisonment in the Texas
10 Department of Criminal Justice for life without parole or by death.
11 An individual adjudged guilty of a capital felony in a case in which
12 the state does not seek the death penalty shall be punished by
13 imprisonment in the Texas Department of Criminal Justice for:

14 (1) life, if the individual committed the offense when
15 younger than 18 years of age [~~individual's case was transferred to~~
16 ~~the court under Section 54.02, Family Code~~]; or

17 (2) life without parole, if the individual committed
18 the offense when 18 years of age or older.

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

1 that:

2 (1) a sentence of life imprisonment is mandatory on
3 conviction of the capital felony, if the individual committed the
4 offense when younger than 18 years of age [~~case was transferred to~~
5 ~~the court under Section 54.02, Family Code~~]; or

6 (2) a sentence of life imprisonment without parole is
7 mandatory on conviction of the capital felony, if the individual
8 committed the offense when 18 years of age or older.

9 SECTION 2. Section 1, Article 37.071, Code of Criminal
10 Procedure, is amended to read as follows:

11 Sec. 1. If a defendant is found guilty in a capital felony
12 case in which the state does not seek the death penalty, the judge
13 shall sentence the defendant to life imprisonment or to life
14 imprisonment without parole as required by Section 12.31, Penal
15 Code.

16 SECTION 3. The change in law made by this Act:

17 (1) applies to a criminal action pending, on appeal,
18 or commenced on or after the effective date of this Act, regardless
19 of whether the criminal action is based on an offense committed
20 before, on, or after that date; and

21 (2) does not affect a final conviction that exists on
22 the effective date of this Act.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect on the 91st day after the last day of the

1 legislative session.