

By: Lucio

S.B. No. 1661

A BILL TO BE ENTITLED

AN ACT

relating to abolishing the death penalty.

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 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 for:

(1) life, if the individual committed the offense when younger than 18 years of age; or

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

(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 individual committed the
3 offense when younger than 18 years of age; or

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

7 SECTION 2. Articles 1.13(a) and (b), Code of Criminal
8 Procedure, are amended to read as follows:

9 (a) Subject to Subsection (b), the ~~[The]~~ defendant in a
10 criminal prosecution for any offense is entitled ~~[other than a~~
11 ~~capital felony case in which the state notifies the court and the~~
12 ~~defendant that it will seek the death penalty shall have the right]~~,
13 upon entering a plea, to waive the right of trial by jury,
14 conditioned, however, that, except as provided by Article 27.19,
15 the waiver must be made in person by the defendant in writing in
16 open court with the consent and approval of the court, and the
17 attorney representing the state. The consent and approval by the
18 court shall be entered of record on the minutes of the court, and
19 the consent and approval of the attorney representing the state
20 shall be in writing, signed by that attorney, and filed in the
21 papers of the cause before the defendant enters the defendant's
22 plea.

23 (b) In a capital felony case ~~[in which the attorney~~
24 ~~representing the State notifies the court and the defendant that it~~
25 ~~will not seek the death penalty]~~, the defendant may waive the right
26 to trial by jury but only if the attorney representing the State, in
27 writing and in open court, consents to the waiver.

1 SECTION 3. Article 4.03, Code of Criminal Procedure, is
2 amended to read as follows:

3 Art. 4.03. COURTS OF APPEALS. The Courts of Appeals shall
4 have appellate jurisdiction coextensive with the limits of their
5 respective districts in all criminal cases [~~except those in which~~
6 ~~the death penalty has been assessed~~]. This article may [~~Article~~
7 ~~shall~~] not be so construed as to embrace any case which has been
8 appealed from any inferior court to the county court, the county
9 criminal court, or county court at law, in which the fine imposed or
10 affirmed by the county court, the county criminal court or county
11 court at law does not exceed one hundred dollars, unless the sole
12 issue is the constitutionality of the statute or ordinance on which
13 the conviction is based.

14 SECTION 4. Section 2, Article 4.04, Code of Criminal
15 Procedure, is amended to read as follows:

16 Sec. 2. The Court of Criminal Appeals shall have, and is
17 hereby given, final appellate and review jurisdiction in criminal
18 cases coextensive with the limits of the state, and its
19 determinations shall be final. [~~The appeal of all cases in which~~
20 ~~the death penalty has been assessed shall be to the Court of~~
21 ~~Criminal Appeals.~~] In addition, the Court of Criminal Appeals may,
22 on its own motion, with or without a petition for such discretionary
23 review being filed by one of the parties, review any decision of a
24 court of appeals in a criminal case. Discretionary review by the
25 Court of Criminal Appeals is not a matter of right, but of sound
26 judicial discretion.

27 SECTION 5. The heading to Article 11.07, Code of Criminal

1 Procedure, is amended to read as follows:

2 Art. 11.07. PROCEDURE AFTER FELONY CONVICTION [~~WITHOUT~~
3 ~~DEATH PENALTY~~]

4 SECTION 6. Sections 1 and 2, Article 11.07, Code of Criminal
5 Procedure, are amended to read as follows:

6 Sec. 1. This article establishes the procedures for an
7 application for writ of habeas corpus in which the applicant seeks
8 relief from a felony judgment [~~imposing a penalty other than~~
9 ~~death~~].

10 Sec. 2. After indictment found in any felony case [~~, other~~
11 ~~than a case in which the death penalty is imposed,~~] and before
12 conviction, the writ must be made returnable in the county where the
13 offense has been committed.

14 SECTION 7. Section 3(b), Article 11.07, Code of Criminal
15 Procedure, is amended to read as follows:

16 (b) An application for writ of habeas corpus filed after
17 final conviction in a felony case [~~, other than a case in which the~~
18 ~~death penalty is imposed,~~] must be filed with the clerk of the court
19 in which the conviction being challenged was obtained, and the
20 clerk shall assign the application to that court. When the
21 application is received by that court, a writ of habeas corpus,
22 returnable to the Court of Criminal Appeals, shall issue by
23 operation of law. The clerk of that court shall make appropriate
24 notation thereof, assign to the case a file number (ancillary to
25 that of the conviction being challenged), and forward a copy of the
26 application by certified mail, return receipt requested, by secure
27 electronic mail, or by personal service to the attorney

1 representing the state in that court, who shall answer the
2 application not later than the 15th day after the date the copy of
3 the application is received. Matters alleged in the application
4 not admitted by the state are deemed denied.

5 SECTION 8. Articles 11.073(b) and (c), Code of Criminal
6 Procedure, are amended to read as follows:

7 (b) A court may grant a convicted person relief on an
8 application for a writ of habeas corpus if:

9 (1) the convicted person files an application, in the
10 manner provided by Article 11.07[~~11.071~~] or 11.072, containing
11 specific facts indicating that:

12 (A) relevant scientific evidence is currently
13 available and was not available at the time of the convicted
14 person's trial because the evidence was not ascertainable through
15 the exercise of reasonable diligence by the convicted person before
16 the date of or during the convicted person's trial; and

17 (B) the scientific evidence would be admissible
18 under the Texas Rules of Evidence at a trial held on the date of the
19 application; and

20 (2) the court makes the findings described by
21 Subdivisions (1)(A) and (B) and also finds that, had the scientific
22 evidence been presented at trial, on the preponderance of the
23 evidence the person would not have been convicted.

24 (c) For purposes of Section 4(a)(1), Article 11.07,
25 [~~Section 5(a)(1), Article 11.071~~] and Section 9(a), Article
26 11.072, a claim or issue could not have been presented previously in
27 an original application or in a previously considered application

1 if the claim or issue is based on relevant scientific evidence that
2 was not ascertainable through the exercise of reasonable diligence
3 by the convicted person on or before the date on which the original
4 application or a previously considered application, as applicable,
5 was filed.

6 SECTION 9. The heading to Article 11.65, Code of Criminal
7 Procedure, is amended to read as follows:

8 Art. 11.65. BOND FOR [CERTAIN] APPLICANTS.

9 SECTION 10. Article 11.65(a), Code of Criminal Procedure,
10 is amended to read as follows:

11 (a) This article applies to an applicant for a writ of
12 habeas corpus seeking relief from the judgment in a criminal case[
13 ~~other than an applicant seeking relief from a judgment imposing a~~
14 ~~penalty of death].~~

15 SECTION 11. Section 6, Article 24.29, Code of Criminal
16 Procedure, is amended to read as follows:

17 Sec. 6. EXCEPTIONS. This Act does not apply to a person in
18 this state who is confined as mentally ill [~~or who is under sentence~~
19 ~~of death].~~

20 SECTION 12. Articles 26.04(b) and (g), Code of Criminal
21 Procedure, are amended to read as follows:

22 (b) Procedures adopted under Subsection (a) shall:

23 (1) authorize only the judges of the county courts,
24 statutory county courts, and district courts trying criminal cases
25 in the county, or the judges' designee, to appoint counsel for
26 indigent defendants in the county;

27 (2) apply to each appointment of counsel made by a

1 judge or the judges' designee in the county;

2 (3) ensure that each indigent defendant in the county
3 who is charged with a misdemeanor punishable by confinement or with
4 a felony and who appears in court without counsel has an opportunity
5 to confer with appointed counsel before the commencement of
6 judicial proceedings;

7 (4) [~~require appointments for defendants in capital~~
8 ~~cases in which the death penalty is sought to comply with any~~
9 ~~applicable requirements under Articles 11.071 and 26.052;~~

10 [(5)] ensure that each attorney appointed from a
11 public appointment list to represent an indigent defendant perform
12 the attorney's duty owed to the defendant in accordance with the
13 adopted procedures, the requirements of this code, and applicable
14 rules of ethics; and

15 (5) [(6)] ensure that appointments are allocated
16 among qualified attorneys in a manner that is fair, neutral, and
17 nondiscriminatory.

18 (g) A countywide alternative program for appointing counsel
19 for indigent defendants in criminal cases is established by a
20 formal action in which two-thirds of the judges of the courts
21 designated under this subsection vote to establish the alternative
22 program. An alternative program for appointing counsel in
23 misdemeanor and felony cases may be established in the manner
24 provided by this subsection by the judges of the county courts,
25 statutory county courts, and district courts trying criminal cases
26 in the county. An alternative program for appointing counsel in
27 misdemeanor cases may be established in the manner provided by this

1 subsection by the judges of the county courts and statutory county
2 courts trying criminal cases in the county. An alternative program
3 for appointing counsel in felony cases may be established in the
4 manner provided by this subsection by the judges of the district
5 courts trying criminal cases in the county. In a county in which an
6 alternative program is established:

7 (1) the alternative program may:

8 (A) use a single method for appointing counsel or
9 a combination of methods; and

10 (B) use a multicounty appointment list using a
11 system of rotation; and

12 (2) the procedures adopted under Subsection (a) must
13 ensure that:

14 (A) attorneys appointed using the alternative
15 program to represent defendants in misdemeanor cases punishable by
16 confinement:

17 (i) meet specified objective
18 qualifications for that representation, which may be graduated
19 according to the degree of seriousness of the offense and whether
20 representation will be provided in trial court proceedings,
21 appellate proceedings, or both; and

22 (ii) are approved by a majority of the
23 judges of the county courts and statutory county courts trying
24 misdemeanor cases in the county;

25 (B) attorneys appointed using the alternative
26 program to represent defendants in felony cases:

27 (i) meet specified objective

1 qualifications for that representation, which may be graduated
2 according to the degree of seriousness of the offense and whether
3 representation will be provided in trial court proceedings,
4 appellate proceedings, or both; and

5 (ii) are approved by a majority of the
6 judges of the district courts trying felony cases in the county; and

7 (C) ~~[appointments for defendants in capital~~
8 ~~cases in which the death penalty is sought comply with the~~
9 ~~requirements of Article 26.052; and~~

10 [~~D~~] appointments are reasonably and
11 impartially allocated among qualified attorneys.

12 SECTION 13. Articles 26.05(a) and (d), Code of Criminal
13 Procedure, are amended to read as follows:

14 (a) A counsel, other than an attorney with a public
15 defender's office ~~[or an attorney employed by the office of capital~~
16 ~~writs]~~, appointed to represent a defendant in a criminal
17 proceeding, including a habeas corpus hearing, shall be paid a
18 reasonable attorney's fee for performing the following services,
19 based on the time and labor required, the complexity of the case,
20 and the experience and ability of the appointed counsel:

21 (1) time spent in court making an appearance on behalf
22 of the defendant as evidenced by a docket entry, time spent in
23 trial, and time spent in a proceeding in which sworn oral testimony
24 is elicited;

25 (2) reasonable and necessary time spent out of court
26 on the case, supported by any documentation that the court
27 requires;

1 (3) preparation of an appellate brief and preparation
2 and presentation of oral argument to a court of appeals or the Court
3 of Criminal Appeals; and

4 (4) preparation of a motion for rehearing.

5 (d) A counsel in a criminal [~~noncapital~~] case, other than an
6 attorney with a public defender's office, appointed to represent a
7 defendant under this code shall be reimbursed for reasonable and
8 necessary expenses, including expenses for investigation and for
9 mental health and other experts. Expenses incurred with prior
10 court approval shall be reimbursed in the [~~same~~] manner provided
11 [~~for capital cases~~] by Articles 26.052(f) and (g), and expenses
12 incurred without prior court approval shall be reimbursed in the
13 manner provided [~~for capital cases~~] by Article 26.052(h).

14 SECTION 14. The heading to Article 26.052, Code of Criminal
15 Procedure, is amended to read as follows:

16 Art. 26.052. [~~APPOINTMENT OF COUNSEL IN DEATH PENALTY~~
17 ~~CASE,~~] REIMBURSEMENT OF [~~INVESTIGATIVE~~] EXPENSES INCURRED BY
18 APPOINTED COUNSEL.

19 SECTION 15. Section 3, Article 31.08, Code of Criminal
20 Procedure, is amended to read as follows:

21 Sec. 3. An [~~Except for the review of a death sentence under~~
22 ~~Section 2(h), Article 37.071, or under Section 2(h), Article~~
23 ~~37.072, an~~] appeal taken in a cause returned to the original county
24 under this article must be docketed in the appellate district in
25 which the county of original venue is located.

26 SECTION 16. Article 34.01, Code of Criminal Procedure, is
27 amended to read as follows:

1 Art. 34.01. SPECIAL VENIRE. A "special venire" is a writ
2 issued in a capital case by order of the district court, commanding
3 the sheriff to summon either verbally or by mail such a number of
4 persons, not less than 50, as the court may order, to appear before
5 the court on a day named in the writ from whom the jury for the trial
6 of such case is to be selected. Where as many as one hundred jurors
7 have been summoned in such county for regular service for the week
8 in which such capital case is set for trial, the judge of the court
9 having jurisdiction of a capital case in which a motion for a
10 special venire has been made, shall grant or refuse such motion for
11 a special venire, and upon such refusal require the case to be tried
12 by regular jurors summoned for service in such county for the week
13 in which such capital case is set for trial and such additional
14 talesmen as may be summoned by the sheriff upon order of the court
15 as provided in Article 34.02 of this Code [~~, but the clerk of such~~
16 ~~court shall furnish the defendant or his counsel a list of the~~
17 ~~persons summoned as provided in Article 34.04~~].

18 SECTION 17. Article 35.15(b), Code of Criminal Procedure,
19 is amended to read as follows:

20 (b) In [~~non-capital~~] felony cases [~~and in capital cases in~~
21 ~~which the State does not seek the death penalty~~], the State and
22 defendant shall each be entitled to ten peremptory challenges. If
23 two or more defendants are tried together each defendant shall be
24 entitled to six peremptory challenges and the State to six for each
25 defendant.

26 SECTION 18. Article 35.16(b), Code of Criminal Procedure,
27 is amended to read as follows:

1 (b) A challenge for cause may be made by the State for any of
2 the following reasons:

3 1. That the juror has conscientious scruples in regard
4 to the imposition [~~infliction~~] of a sentence of imprisonment for
5 life without parole [~~the punishment of death for crime,~~] in a
6 capital case[~~, where the State is seeking the death penalty~~];

7 2. That the juror [~~he~~] is related within the third
8 degree of consanguinity or affinity, as determined under Chapter
9 573, Government Code, to the defendant; and

10 3. That the juror [~~he~~] has a bias or prejudice against
11 any phase of the law upon which the State is entitled to rely for
12 conviction or punishment.

13 SECTION 19. Article 35.17, Code of Criminal Procedure, is
14 amended to read as follows:

15 Art. 35.17. VOIR DIRE EXAMINATION

16 [1]. When the court in its discretion so directs, [~~except as~~
17 ~~provided in Section 2,~~] the state and defendant shall conduct the
18 voir dire examination of prospective jurors in the presence of the
19 entire panel.

20 [~~2. In a capital felony case in which the State seeks the~~
21 ~~death penalty, the court shall propound to the entire panel of~~
22 ~~prospective jurors questions concerning the principles, as~~
23 ~~applicable to the case on trial, of reasonable doubt, burden of~~
24 ~~proof, return of indictment by grand jury, presumption of~~
25 ~~innocence, and opinion. Then, on demand of the State or defendant,~~
26 ~~either is entitled to examine each juror on voir dire individually~~
27 ~~and apart from the entire panel, and may further question the juror~~

1 ~~on the principles propounded by the court.]~~

2 SECTION 20. Article 35.25, Code of Criminal Procedure, is
3 amended to read as follows:

4 Art. 35.25. MAKING PEREMPTORY CHALLENGE. The [~~In~~
5 ~~non-capital cases and in capital cases in which the State's~~
6 ~~attorney has announced that he will not qualify the jury for, or~~
7 ~~seek the death penalty, the]~~ party desiring to challenge any juror
8 peremptorily shall strike the name of such juror from the list
9 furnished the party [~~him~~] by the clerk.

10 SECTION 21. Article 35.26, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 35.26. LISTS RETURNED TO CLERK. [~~(a)~~] When the
13 parties have made or declined to make their peremptory challenges,
14 they shall deliver their lists to the clerk. The [~~Except as~~
15 ~~provided in Subsection (b) of this section, the]~~ clerk shall, if the
16 case be in the district court, call off the first twelve names on
17 the lists that have not been stricken. If the case be in the county
18 court, the clerk [~~he~~] shall call off the first six names on the
19 lists that have not been stricken. Those whose names are called
20 shall be the jury.

21 [~~(b) In a capital case in which the state seeks the death~~
22 ~~penalty, the court may direct that two alternate jurors be selected~~
23 ~~and that the first fourteen names not stricken be called off by the~~
24 ~~clerk. The last two names to be called are the alternate jurors.]~~

25 SECTION 22. Article 36.29(a), Code of Criminal Procedure,
26 is amended to read as follows:

27 (a) Not less than twelve jurors can render and return a

1 verdict in a felony case. It must be concurred in by each juror and
2 signed by the foreman. After [~~Except as provided in Subsection (b),~~
3 ~~however, after~~] the trial of any felony case begins and a juror dies
4 or, as determined by the judge, becomes disabled from sitting at any
5 time before the charge of the court is read to the jury, the
6 remainder of the jury shall have the power to render the verdict;
7 but when the verdict shall be rendered by less than the whole
8 number, it shall be signed by every member of the jury concurring in
9 it.

10 SECTION 23. Section 2(b), Article 37.07, Code of Criminal
11 Procedure, is amended to read as follows:

12 (b) If [~~Except as provided by Article 37.071 or 37.072, if~~]
13 a finding of guilty is returned, it shall then be the responsibility
14 of the judge to assess the punishment applicable to the offense;
15 provided, however, that (1) in any criminal action where the jury
16 may recommend community supervision and the defendant filed his
17 sworn motion for community supervision before the trial began, and
18 (2) in other cases where the defendant so elects in writing before
19 the commencement of the voir dire examination of the jury panel, the
20 punishment shall be assessed by the same jury, except as provided in
21 Section 3(c) of this article and in Article 44.29. If a finding of
22 guilty is returned, the defendant may, with the consent of the
23 attorney for the state, change his election of one who assesses the
24 punishment.

25 SECTION 24. Section 1, Article 42.01, Code of Criminal
26 Procedure, is amended to read as follows:

27 Sec. 1. A judgment is the written declaration of the court

1 signed by the trial judge and entered of record showing the
2 conviction or acquittal of the defendant. The sentence served
3 shall be based on the information contained in the judgment. The
4 judgment shall reflect:

- 5 1. The title and number of the case;
- 6 2. That the case was called and the parties appeared,
7 naming the attorney for the state, the defendant, and the attorney
8 for the defendant, or, where a defendant is not represented by
9 counsel, that the defendant knowingly, intelligently, and
10 voluntarily waived the right to representation by counsel;
- 11 3. The plea or pleas of the defendant to the offense
12 charged;
- 13 4. Whether the case was tried before a jury or a jury
14 was waived;
- 15 5. The submission of the evidence, if any;
- 16 6. In cases tried before a jury that the jury was
17 charged by the court;
- 18 7. The verdict or verdicts of the jury or the finding
19 or findings of the court;
- 20 8. In the event of a conviction that the defendant is
21 adjudged guilty of the offense as found by the verdict of the jury
22 or the finding of the court, and that the defendant be punished in
23 accordance with the jury's verdict or the court's finding as to the
24 proper punishment;
- 25 9. In the event of conviction where [~~death or~~] any
26 punishment is assessed that the defendant be sentenced to [~~death,~~]
27 a term of confinement or community supervision, or to pay a fine, as

1 the case may be;

2 10. In the event of conviction where the imposition of
3 sentence is suspended and the defendant is placed on community
4 supervision, setting forth the punishment assessed, the length of
5 community supervision, and the conditions of community
6 supervision;

7 11. In the event of acquittal that the defendant be
8 discharged;

9 12. The county and court in which the case was tried
10 and, if there was a change of venue in the case, the name of the
11 county in which the prosecution was originated;

12 13. The offense or offenses for which the defendant
13 was convicted;

14 14. The date of the offense or offenses and degree of
15 offense for which the defendant was convicted;

16 15. The term of sentence;

17 16. The date judgment is entered;

18 17. The date sentence is imposed;

19 18. The date sentence is to commence and any credit for
20 time served;

21 19. The terms of any order entered pursuant to Article
22 [42.08](#) of this code that the defendant's sentence is to run
23 cumulatively or concurrently with another sentence or sentences;

24 20. The terms of any plea bargain;

25 21. Affirmative findings entered pursuant to
26 Subdivision (2) of Subsection (a) of Section 3g of Article [42.12](#) of
27 this code;

1 22. The terms of any fee payment ordered under Article
2 [42.151](#) of this code;

3 23. The defendant's thumbprint taken in accordance
4 with Article [38.33](#) of this code;

5 24. In the event that the judge orders the defendant to
6 repay a reward or part of a reward under Articles [37.073](#) and [42.152](#)
7 of this code, a statement of the amount of the payment or payments
8 required to be made;

9 25. In the event that the court orders restitution to
10 be paid to the victim, a statement of the amount of restitution
11 ordered and:

12 (A) the name and address of a person or agency
13 that will accept and forward restitution payments to the victim; or

14 (B) if the court specifically elects to have
15 payments made directly to the crime victim, the name and permanent
16 address of the victim at the time of judgment;

17 26. In the event that a presentence investigation is
18 required by Section 9(a), (b), (h), or (i), Article [42.12](#) of this
19 code, a statement that the presentence investigation was done
20 according to the applicable provision;

21 27. In the event of conviction of an offense for which
22 registration as a sex offender is required under Chapter 62, a
23 statement that the registration requirement of that chapter applies
24 to the defendant and a statement of the age of the victim of the
25 offense;

26 28. The defendant's state identification number
27 required by Article [~~Section~~] [60.052](#)(a)(2), if that number has been

1 assigned at the time of the judgment; and

2 29. The incident number required by Article [~~Section~~]
3 60.052(a)(4), if that number has been assigned at the time of the
4 judgment.

5 SECTION 25. Sections 1 and 3, Article 42.09, Code of
6 Criminal Procedure, are amended to read as follows:

7 Sec. 1. Except as provided in Sections 2 and 3, a defendant
8 shall be delivered to a jail or to the Texas Department of Criminal
9 Justice when his sentence is pronounced [~~, or his sentence to death~~
10 ~~is announced,~~] by the court. The defendant's sentence begins to
11 run on the day it is pronounced, but with all credits, if any,
12 allowed by Article 42.03.

13 Sec. 3. If a defendant is convicted of a felony and
14 sentenced to [~~death,~~] life [~~,~~] or a term of more than ten years in
15 the Texas Department of Criminal Justice and the defendant [~~he~~]
16 gives notice of appeal, the defendant [~~he~~] shall be transferred to
17 the department on a commitment pending a mandate from the court of
18 appeals or the Court of Criminal Appeals.

19 SECTION 26. Article 44.251(a), Code of Criminal Procedure,
20 is amended to read as follows:

21 (a) Subject to Article 44.2511, the [~~The~~] court of criminal
22 appeals shall reform a sentence of death to a sentence of
23 confinement in the Texas Department of Criminal Justice for life
24 without parole [~~if the court finds that there is legally~~
25 ~~insufficient evidence to support an affirmative answer to an issue~~
26 ~~submitted to the jury under Section 2(b), Article 37.071, or~~
27 ~~Section 2(b), Article 37.072]~~.

1 SECTION 27. Articles 44.2511(a) and (b), Code of Criminal
2 Procedure, are amended to read as follows:

3 (a) This article applies to the reformation of a sentence of
4 death in a capital case for an offense committed before September 1,
5 1991. For purposes of this subsection, an offense is committed
6 before September 1, 1991, if every element of the offense occurred
7 before that date.

8 (b) The court of criminal appeals shall reform a sentence of
9 death to a sentence of confinement in the Texas Department of
10 Criminal Justice for life [~~if the court finds that there is legally~~
11 ~~insufficient evidence to support an affirmative answer to an issue~~
12 ~~submitted to the jury under Section 3(b), Article 37.0711].~~

13 SECTION 28. Article 44.29(b), Code of Criminal Procedure,
14 is amended to read as follows:

15 (b) If the court of appeals or the Court of Criminal Appeals
16 awards a new trial to a defendant [~~other than a defendant convicted~~
17 ~~of an offense under Section 19.03, Penal Code,~~] only on the basis of
18 an error or errors made in the punishment stage of the trial, the
19 cause shall stand as it would have stood in case the new trial had
20 been granted by the court below, except that the court shall
21 commence the new trial as if a finding of guilt had been returned
22 and proceed to the punishment stage of the trial under Subsection
23 (b), Section 2, Article 37.07, of this code. If the defendant
24 elects, the court shall empanel a jury for the sentencing stage of
25 the trial in the same manner as a jury is empaneled by the court for
26 other trials before the court. At the new trial, the court shall
27 allow both the state and the defendant to introduce evidence to show

1 the circumstances of the offense and other evidence as permitted by
2 Section 3 of Article 37.07 of this code.

3 SECTION 29. Section 6(a), Article 49.25, Code of Criminal
4 Procedure, is amended to read as follows:

5 (a) Any medical examiner, or his duly authorized deputy,
6 shall be authorized, and it shall be his duty, to hold inquests with
7 or without a jury within his county, in the following cases:

8 1. When a person shall die within twenty-four hours
9 after admission to a hospital or institution or in prison or in
10 jail;

11 2. When any person is killed; or from any cause dies
12 an unnatural death[~~, except under sentence of the law~~]; or dies in
13 the absence of one or more good witnesses;

14 3. When the body or a body part of a person is found,
15 the cause or circumstances of death are unknown, and:

16 (A) the person is identified; or

17 (B) the person is unidentified;

18 4. When the circumstances of the death of any person
19 are such as to lead to suspicion that he came to his death by
20 unlawful means;

21 5. When any person commits suicide, or the
22 circumstances of his death are such as to lead to suspicion that he
23 committed suicide;

24 6. When a person dies without having been attended by a
25 duly licensed and practicing physician, and the local health
26 officer or registrar required to report the cause of death under
27 Section 193.005, Health and Safety Code, does not know the cause of

1 death. When the local health officer or registrar of vital
2 statistics whose duty it is to certify the cause of death does not
3 know the cause of death, he shall so notify the medical examiner of
4 the county in which the death occurred and request an inquest;

5 7. When the person is a child who is younger than six
6 years of age and the death is reported under Chapter 264, Family
7 Code; and

8 8. When a person dies who has been attended
9 immediately preceding his death by a duly licensed and practicing
10 physician or physicians, and such physician or physicians are not
11 certain as to the cause of death and are unable to certify with
12 certainty the cause of death as required by Section 193.004, Health
13 and Safety Code. In case of such uncertainty the attending
14 physician or physicians, or the superintendent or general manager
15 of the hospital or institution in which the deceased shall have
16 died, shall so report to the medical examiner of the county in which
17 the death occurred, and request an inquest.

18 SECTION 30. Article 60.052(c), Code of Criminal Procedure,
19 is amended to read as follows:

20 (c) Information in the corrections tracking system relating
21 to the handling of offenders must include the following information
22 about each imprisonment or [7] confinement [~~7~~ ~~or execution~~] of an
23 offender:

24 (1) the date of the imprisonment or confinement;

25 (2) [~~if the offender was sentenced to death:~~

26 [~~(A) the date of execution, and~~

27 [~~(B) if the death sentence was commuted, the~~

1 ~~sentence to which the sentence of death was commuted and the date of~~
2 ~~commutation;~~

3 [~~3~~] the date the offender was released from
4 imprisonment or confinement and whether the release was a discharge
5 or a release on parole or mandatory supervision;

6 (3) [~~4~~] if the offender is released on parole or
7 mandatory supervision:

8 (A) the offense for which the offender was
9 convicted by offense code and incident number;

10 (B) the date the offender was received by an
11 office of the parole division;

12 (C) the county in which the offender resides
13 while under supervision;

14 (D) any program in which an offender is placed or
15 has previously been placed and the level of supervision the
16 offender is placed on while under the jurisdiction of the parole
17 division;

18 (E) the date a program described by Paragraph (D)
19 begins, the date the program ends, and whether the program was
20 completed successfully;

21 (F) the date a level of supervision described by
22 Paragraph (D) begins and the date the level of supervision ends;

23 (G) if the offender's release status is revoked,
24 the reason for the revocation and the date of revocation;

25 (H) the expiration date of the sentence; and

26 (I) the date of the offender's release from the
27 parole division or the date on which the offender is granted

1 clemency; and

2 (4) [~~(5)~~] if the offender is released under Section
3 6(a), Article 42.12, the date of the offender's release.

4 SECTION 31. Article 64.01(c), Code of Criminal Procedure,
5 is amended to read as follows:

6 (c) A convicted person is entitled to counsel during a
7 proceeding under this chapter. The convicting court shall appoint
8 counsel for the convicted person if the person informs the court
9 that the person wishes to submit a motion under this chapter, the
10 court finds reasonable grounds for a motion to be filed, and the
11 court determines that the person is indigent. Counsel must be
12 appointed under this subsection not later than the 45th day after
13 the date the court finds reasonable grounds or the date the court
14 determines that the person is indigent, whichever is
15 later. Compensation of counsel is provided in the same manner as
16 is required by[+

17 ~~[(1) Article 11.071 for the representation of a~~
18 ~~petitioner convicted of a capital felony; and~~

19 ~~[(2)]~~ Chapter 26 for the representation in a habeas
20 corpus hearing of an indigent defendant convicted of a felony other
21 than a capital felony.

22 SECTION 32. Article 64.05, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 64.05. APPEALS. An appeal under this chapter is to a
25 court of appeals in the same manner as an appeal of any other
26 criminal matter[~~, except that if the convicted person was convicted~~
27 ~~in a capital case and was sentenced to death, the appeal is a direct~~

1 ~~appeal to the court of criminal appeals].~~

2 SECTION 33. Section 79.031, Government Code, is amended to
3 read as follows:

4 Sec. 79.031. FAIR DEFENSE ACCOUNT. The fair defense
5 account is an account in the general revenue fund that may be
6 appropriated only to[+]

7 [~~(1)~~] the commission for the purpose of implementing
8 this chapter[; and

9 [~~(2) the office of capital writs for the purpose of~~
10 ~~implementing Subchapter B, Chapter 78].~~

11 SECTION 34. Section 411.088(a-1), Government Code, is
12 amended to read as follows:

13 (a-1) The department may not charge a fee under Subsection
14 (a) for providing criminal history record information to:

15 (1) a criminal justice agency;

16 [~~(2) the office of capital writs;~~] or

17 (2) [~~(3)~~] a public defender's office.

18 SECTION 35. Section 411.1272, Government Code, is amended
19 to read as follows:

20 Sec. 411.1272. ACCESS TO CRIMINAL HISTORY RECORD
21 INFORMATION: [~~OFFICE OF CAPITAL WRITS AND~~] PUBLIC DEFENDER'S

22 OFFICES. A [~~The office of capital writs and a~~] public defender's
23 office is [~~are~~] entitled to obtain from the department criminal

24 history record information maintained by the department that
25 relates to a criminal case in which an attorney compensated [~~by the~~

26 ~~office of capital writs or~~] by the public defender's office has been
27 appointed.

1 SECTION 36. Section 508.145(a), Government Code, is amended
2 to read as follows:

3 (a) An inmate [~~under sentence of death,~~] serving a sentence
4 of life imprisonment without parole, serving a sentence for an
5 offense under Section 21.02, Penal Code, or serving a sentence for
6 an offense under Section 22.021, Penal Code, that is punishable
7 under Subsection (f) of that section is not eligible for release on
8 parole.

9 SECTION 37. Sections 508.146(a) and (f), Government Code,
10 are amended to read as follows:

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

21 (1) the Texas Correctional Office on Offenders with
22 Medical or Mental Impairments, in cooperation with the Correctional
23 Managed Health Care Committee, identifies the inmate as being:

24 (A) elderly, physically disabled, mentally ill,
25 terminally ill, or mentally retarded or having a condition
26 requiring long-term care, if the inmate is an inmate with an instant
27 offense that is described in Section 3g, Article 42.12, Code of

1 Criminal Procedure; or

2 (B) in a persistent vegetative state or being a
3 person with an organic brain syndrome with significant to total
4 mobility impairment, if the inmate is an inmate who has a reportable
5 conviction or adjudication under Chapter 62, Code of Criminal
6 Procedure;

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

10 (3) the Texas Correctional Office on Offenders with
11 Medical or Mental Impairments, in cooperation with the pardons and
12 paroles division, has prepared for the inmate a medically
13 recommended intensive supervision plan that requires the inmate to
14 submit to electronic monitoring, places the inmate on
15 super-intensive supervision, or otherwise ensures appropriate
16 supervision of the inmate.

17 (f) An inmate who is not a citizen of the United States, as
18 defined by federal law, who is not under a sentence of [~~death or~~
19 life without parole, and who does not have a reportable conviction
20 or adjudication under Chapter 62, Code of Criminal Procedure, or an
21 instant offense described in Section 3g, Article 42.12, Code of
22 Criminal Procedure, may be released to immigration authorities
23 pending deportation on a date designated by a parole panel
24 described by Subsection (e) if the parole panel determines that on
25 release the inmate would be deported to another country and that the
26 inmate does not constitute a threat to public safety in the other
27 country or this country and is unlikely to reenter this country

1 illegally.

2 SECTION 38. Section 552.134(b), Government Code, is amended
3 to read as follows:

4 (b) Subsection (a) does not apply to[+
5 [~~(1)~~] statistical or other aggregated information
6 relating to inmates confined in one or more facilities operated by
7 or under a contract with the department[~~, or~~
8 [~~(2) information about an inmate sentenced to death~~].

9 SECTION 39. Section 557.012(b), Government Code, is
10 amended to read as follows:

11 (b) An offense under this section is punishable by[+
12 [~~(1) death, or~~
13 [~~(2)~~] confinement in the Texas Department of Criminal
14 Justice for:

- 15 (1) [~~(A)~~] life; or
16 (2) [~~(B)~~] a term of not less than two years.

17 SECTION 40. Section 46.03(a), Penal Code, is amended to
18 read as follows:

19 (a) A person commits an offense if the person intentionally,
20 knowingly, or recklessly possesses or goes with a firearm, illegal
21 knife, club, or prohibited weapon listed in Section 46.05(a):

22 (1) on the physical premises of a school or
23 educational institution, any grounds or building on which an
24 activity sponsored by a school or educational institution is being
25 conducted, or a passenger transportation vehicle of a school or
26 educational institution, whether the school or educational
27 institution is public or private, unless pursuant to written

1 regulations or written authorization of the institution;

2 (2) on the premises of a polling place on the day of an
3 election or while early voting is in progress;

4 (3) on the premises of any government court or offices
5 utilized by the court, unless pursuant to written regulations or
6 written authorization of the court;

7 (4) on the premises of a racetrack; or

8 (5) in or into a secured area of an airport[~~, or~~

9 ~~[(6) within 1,000 feet of premises the location of~~
10 ~~which is designated by the Texas Department of Criminal Justice as a~~
11 ~~place of execution under Article 43.19, Code of Criminal Procedure,~~
12 ~~on a day that a sentence of death is set to be imposed on the~~
13 ~~designated premises and the person received notice that:~~

14 ~~[(A) going within 1,000 feet of the premises with~~
15 ~~a weapon listed under this subsection was prohibited; or~~

16 ~~[(B) possessing a weapon listed under this~~
17 ~~subsection within 1,000 feet of the premises was prohibited].~~

18 SECTION 41. (a) The following provisions of the Code of
19 Criminal Procedure are repealed:

20 (1) Article 11.071;

21 (2) Articles 26.044(a)(2) and (n);

22 (3) Articles 26.052(a), (b), (c), (d), (e), (i), (j),
23 (k), (l), (m), and (n);

24 (4) Article 34.04;

25 (5) Articles 35.13, 35.15(a), and 35.29(c);

26 (6) Article 36.29(b);

27 (7) Articles 37.071, 37.0711, and 37.072;

1 (8) Articles 38.43(i), (j), (k), (l), and (m);

2 (9) Article 42.04;

3 (10) Articles 43.14, 43.141, 43.15, 43.16, 43.17,
4 43.18, 43.19, 43.20, 43.21, 43.22, 43.23, 43.24, and 43.25;

5 (11) Articles 44.251(b), (c), and (d), 44.2511(c) and
6 (d), and 44.29(c) and (d); and

7 (12) Article 46.05.

8 (b) The following provisions of the Government Code are
9 repealed:

10 (1) Chapter 78;

11 (2) Section 79.001(12); and

12 (3) Section 411.082(5).

13 (c) Section 46.15(f), Penal Code, is repealed.

14 SECTION 42. The change in law made by this Act applies only
15 to a criminal case in which the indictment in the case is filed
16 before, on, or after the effective date of this Act.

17 SECTION 43. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2015.