

## **BILL ANALYSIS**

C.S.H.B. 1340  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In the American justice system, criminal punishments are generally calibrated by considering factors such as the severity of the offender's conduct, the harm it caused, and the offender's culpable mental state. Yet state law also allows courts to convict individuals of an offense that was committed by someone else, which is also known as the "conspirator-party rule" or the "law of parties." The law provides that in a conspiracy to commit a felony in which another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed if the offense was in furtherance of the unlawful purpose and should have been anticipated as a result of carrying out the conspiracy, regardless of whether the offender was, in fact, aware of the possibility. C.S.H.B. 1340 seeks to address this issue with respect to capital murder by setting out a two-step approach relating to the criminal liability and sentencing of conspirators in a capital murder case under the law of parties by first requiring that a conspirator meet certain conditions in order to be convicted of capital murder. Secondly, in order to impose a death sentence, the jury must find that the conspirator actually caused the death of the victim or did not actually cause the death but intended to kill the victim or another.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1340 amends the Penal Code to establish that a conspirator is guilty under the law of parties of capital murder committed by a coconspirator in the attempt to carry out a conspiracy to commit another felony, though having no intent to commit the capital murder, only under the following conditions:

- the conspirator is a major participant in the conspiracy;
- in attempting to carry out the conspiracy, the conspirator acts with reckless indifference to human life; and
- the capital murder was committed in furtherance of an unlawful purpose.

The bill establishes the actions that render the conspirator a major participant and the conditions under which the conspirator acts with reckless indifference to human life.

C.S.H.B. 1340 amends the Code of Criminal Procedure to remove the requirement for the court to submit to the jury permitted to find a defendant guilty as a party under the law of parties in a capital case the issue of whether the defendant anticipated that a human life would be taken.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1340 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include the original's prohibition against the sentencing to death of a defendant who is found guilty in a capital felony case by a jury permitted to find the defendant guilty as a party under the law of parties regarding the commission of a felony other than the attempted felony. However, the substitute removes from the issues on which such a jury must return a verdict and that inform whether such a defendant is sentenced to death the issue of whether the defendant anticipated that a human life would be taken, which is not removed in the original.

Additionally, the substitute establishes limited circumstances under which a conspirator is guilty of capital murder under the law of parties regarding the commission of a felony other than the attempted felony, which are not in the original.