

By: Smithee, Collier

H.B. No. 1293

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a court to grant a motion for a new trial in certain criminal cases.

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

SECTION 1. Chapter 40, Code of Criminal Procedure, is amended by adding Article 40.002 to read as follows:

Art. 40.002. NEW TRIAL ON MOTION BY AGREEMENT OF PARTIES.

(a) Notwithstanding any other law, at any time during the period of a term of imprisonment, a defendant may, with the written consent of the district attorney or criminal district attorney, file a motion for a new trial with the convicting court. The motion must include an agreed statement of facts for the court to consider.

(b) The court may, after a hearing, grant the defendant a new trial in the interest of justice. The court may rely on the agreed statement in granting a new trial, and the agreed statement may constitute the entire record in the cause.

(c) The rights of appeal provided by Chapter 44 apply to a decision of a court to grant a new trial under this article, except that neither the attorney representing the state nor the defendant is entitled to appeal the court's decision to deny a motion for a new trial.

(d) The attorney representing the state may condition the attorney's consent to a motion for a new trial on any appropriate reason, including a requirement that the defendant:

1 (1) plead guilty and accept a specific punishment;

2 (2) waive the defendant's parole eligibility as part
3 of any punishment agreement; or

4 (3) waive the defendant's right to appeal.

5 (e) Until the trial court has granted the motion under this
6 article, the defendant may withdraw the motion or the attorney
7 representing the state may withdraw consent to the motion. If the
8 motion or consent is withdrawn, the court is prohibited from
9 granting a new trial in the case based on that motion.

10 SECTION 2. This Act takes effect September 1, 2021.