

By: Leach, Thompson of Harris, Dutton,  
Smithee, Collier, et al.

H.B. No. 1340

Substitute the following for H.B. No. 1340:

By: Crockett

C.S.H.B. No. 1340

A BILL TO BE ENTITLED

AN ACT

relating to the extent of a defendant's criminal responsibility for  
the conduct of a coconspirator in a capital murder case.

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

SECTION 1. Section 2(b), Article 37.071, Code of Criminal  
Procedure, is amended to read as follows:

(b) On conclusion of the presentation of the evidence, the  
court shall submit the following issues to the jury:

(1) whether there is a probability that the defendant  
would commit criminal acts of violence that would constitute a  
continuing threat to society; and

(2) in cases in which the jury charge at the guilt or  
innocence stage permitted the jury to find the defendant guilty as a  
party under Sections 7.01 and 7.02, Penal Code, whether the  
defendant actually caused the death of the deceased or did not  
actually cause the death of the deceased but intended to kill the  
deceased or another [~~or anticipated that a human life would be  
taken~~].

SECTION 2. Section 7.02(b), Penal Code, is amended to read  
as follows:

(b) If, in the attempt to carry out a conspiracy to commit  
one felony, another felony is committed by one of the conspirators,  
all conspirators are guilty of the felony actually committed,  
though having no intent to commit it, provided that [~~if~~] the offense

1 was committed in furtherance of the unlawful purpose and was one  
2 that should have been anticipated as a result of the carrying out of  
3 the conspiracy. This subsection does not apply to the prosecution  
4 of the offense of capital murder.

5 SECTION 3. Subchapter A, Chapter 7, Penal Code, is amended  
6 by adding Section 7.021 to read as follows:

7 Sec. 7.021. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER  
8 CONSPIRATOR IN CAPITAL MURDER CASES. (a) If, in the attempt to  
9 carry out a conspiracy to commit one felony, a capital murder is  
10 committed by one of the conspirators, a conspirator is guilty of the  
11 capital murder, though having no intent to commit it, provided  
12 that:

13 (1) the conspirator is a major participant in the  
14 conspiracy;

15 (2) in attempting to carry out the conspiracy, the  
16 conspirator acts with reckless indifference to human life; and

17 (3) the capital murder was committed in furtherance of  
18 an unlawful purpose.

19 (b) For purposes of Subsection (a):

20 (1) a conspirator is a major participant if the  
21 conspirator plans, organizes, directs, or otherwise substantially  
22 participates in the specific conduct that results in the death of a  
23 victim; and

24 (2) a conspirator acts with reckless indifference to  
25 human life if the conspirator is aware of but consciously  
26 disregards a substantial and unjustifiable risk that another  
27 conspirator intends to commit an act that is clearly dangerous to

1 human life.

2           SECTION 4. The change in law made by this Act applies only  
3 to the prosecution of an offense committed on or after the effective  
4 date of this Act. The prosecution of an offense committed before the  
5 effective date of this Act is governed by the law in effect on the  
6 date the offense was committed, and the former law is continued in  
7 effect for that purpose. For purposes of this section, an offense  
8 was committed before the effective date of this Act if any element  
9 of the offense occurred before that date.

10           SECTION 5. This Act takes effect September 1, 2021.