

BILL ANALYSIS

C.S.H.B. 188
By: Moody
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Capital criminal law practitioners and former capital jury members have identified ambiguity in the jury instructions used in capital felony cases. Currently, juries must answer "yes" to a series of questions about future dangerousness and culpability of a defendant in order to impose the death penalty. The current language of the instructions has caused confusion regarding the required vote threshold to impose the death penalty and jurors have said this confusion has caused them to vote contrary to their consciences and impose the death penalty. C.S.H.B. 188 seeks to address this issue by revising the language in jury instructions provided in a sentencing proceeding in a capital felony case in which the state seeks the death penalty.

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. 188 amends the Code of Criminal Procedure to revise the jury instructions provided in a sentencing proceeding in a capital felony case in which the state seeks the death penalty. The bill clarifies that the jury is required to answer the following issues "no" unless it answers the issues "yes" unanimously:

- whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society; or
- in cases in which the jury finds the defendant guilty under the law of parties, whether the defendant actually caused the deceased's death or did not but intended to kill the deceased or another or anticipated that a human life would be taken.

C.S.H.B. 188 clarifies that a jury that returns an affirmative finding to those issues is required to answer "yes" to the following issue unless it answers the issue "no" unanimously: whether, taking into consideration all of the evidence, including the circumstances of the offense and the defendant's character, background, and personal moral culpability, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed.

C.S.H.B. 188 applies only to a criminal proceeding that commences on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

C.S.H.B. 188 differs from the introduced only by including a Texas Legislative Council draft number in the footer.