

BILL ANALYSIS

Senate Research Center
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S.B. 23
By: Huffman
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In June 2012, the United States Supreme Court ruled in *Miller v. Alabama* that life without the possibility of parole is unconstitutional as applied to juvenile defendants. In Texas, the age of majority is 17 years. However, the Supreme Court's ruling contemplated juveniles as being under the age of 18.

Prior to the ruling in *Miller v. Alabama*, Texas policymakers had already recognized the need to treat juvenile defendants differently than adults, and had established the toughest sentence available for juvenile defendants under Texas law to be life with the possibility of parole in 40 years.

Because the current sentencing structure only applies to defendants under 17 years of age, Texas law must be amended to apply the sentence of life with the possibility of parole in 40 years to defendants under the age of 18 in accordance with the Supreme Court's recent ruling.

As proposed, S.B. 23 amends current law relating to the punishment for a capital felony committed by an individual younger than 18 years of age.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.31, Penal Code, as follows:

Sec. 12.31. CAPITAL FELONY. (a) Requires an individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty to be punished by imprisonment in the Texas Department of Criminal Justice (TDCJ) for life without parole or by death. Requires an individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty to be punished by imprisonment in TDCJ for:

(1) life, if the individual committed the offense when younger than 18 years of age, rather than life, if the individual's case was transferred to the court under Section 54.02 (Waiver of Jurisdiction and Discretionary Transfer to Criminal Court), Family Code; or

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

(b) Requires prospective jurors, in a capital felony trial in which the state does not seek the death penalty, to be informed that the state is not seeking the death penalty and that:

(1) a sentence of life imprisonment is mandatory on conviction of the capital felony, if the individual committed the offense when younger than

18 years of age, rather than if the case was transferred to the court under Section 54.02, Family Code; or

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

SECTION 2. Amends Section 1, Article 37.071, Code of Criminal Procedure, to require the judge, if a defendant is found guilty in a capital felony case in which the state does not seek the death penalty, to sentence the defendant to life imprisonment or to life imprisonment without parole as required by Section 12.31, Penal Code.

SECTION 3. Provides that the change in law made by this Act:

(1) applies to a criminal action pending, on appeal, or commenced on or after the effective date of this Act, regardless of whether the criminal action is based on an offense committed before, on, or after that date; and

(2) does not affect a final conviction that exists on the effective date of this Act.

SECTION 4. Effective date: upon passage or the 91st day after the last day of the legislative session.