

## **BILL ANALYSIS**

C.S.H.B. 3054  
By: Herrero  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that jurors in a capital case are not adequately informed about the effect of their sentencing decisions that ultimately may end a person's life. C.S.H.B. 3054 seeks to address this issue by revising certain procedures in a capital case relating to the applicable issues submitted to the jury in a sentencing proceeding.

### **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. 3054 amends the Code of Criminal Procedure to remove the prohibition against a jury, in the sentencing proceeding for a capital offense in which the state seeks the death penalty, from answering "no" unless 10 or more jurors agree when considering whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society and, 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 certain Penal Code provisions relating to parties to the offense and relating to criminal responsibility for the conduct of another, 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. The bill removes the prohibition against a jury, in such a sentencing proceeding, from answering "yes" unless 10 or more jurors agree when considering whether, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, 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.

### **EFFECTIVE DATE**

September 1, 2017.

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

While C.S.H.B. 3054 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

85R 28493

17.124.752

Substitute Document Number: 85R 27358

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

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

No equivalent provision.

(1) If a defendant is tried for a capital offense in which the state seeks the death penalty, on a finding that the defendant is guilty of a capital offense, the court shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death or life imprisonment without parole. The proceeding shall be conducted in the trial court and, except as provided by Article 44.29(c) [of this code], before the trial jury as soon as practicable. In the proceeding, evidence may be presented by the state and the defendant or the defendant's counsel as to any matter that the court deems relevant to sentence, including evidence of the defendant's background or character or the circumstances of the offense that mitigates against the imposition of the death penalty. This subdivision shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Texas. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death. The introduction of evidence of extraneous conduct is governed by the notice requirements of Section 3(g), Article 37.07. ~~[The court, the attorney representing the state, the defendant, or the defendant's counsel may not inform a juror or a prospective juror of the effect of a failure of a jury to agree on issues submitted under Subsection (c) or (e).]~~

SECTION 2. Section 2(d), Article 37.071, Code of Criminal Procedure, is amended.

SECTION 1. Same as introduced version.

SECTION 3. Section 2(f), Article 37.071, Code of Criminal Procedure, is amended.

SECTION 2. Same as introduced version.

SECTION 4. The change in law made by this Act applies only to a criminal proceeding that commences on or after the effective date of this Act. A criminal proceeding that commenced before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 3. Same as introduced version.

SECTION 5. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.