

- SUBJECT:** Life sentence for juveniles convicted of capital murder
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 10 ayes — Gallego, Christian, Fletcher, Hodge, Kent, Miklos, Moody, Pierson, Vaught, Vo
- 1 nay — Riddle
- SENATE VOTE:** On final passage, April 8 — 31-0
- WITNESSES:** For — Jeanne Meurer, Travis County Juvenile Court; Allen Place, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify:* Kristin Etter, Texas Criminal Defense Lawyers Association; Samuel Gunter, Texas Criminal Justice Coalition; Matt Simpson, The ACLU of Texas)
- Against — None
- BACKGROUND:** Under Family Code, sec. 54.02, the juvenile court may transfer certain juveniles to adult court for prosecution. In the case of capital murder, juveniles must be at least 14 years old at the time they are accused of committing the offense.
- Penal Code, sec.19.03 lists nine circumstances or types of victims that can qualify a murder as capital murder. Capital murder carries a penalty of death or life without parole. The sentence of life without parole was instituted in 2005 when the Legislature eliminated life sentences as an option for capital murder. Also in 2005, the U.S. Supreme Court ruled in *Roper v. Simmons* that the Eighth and Fourteenth Amendments forbid the imposition of the death penalty on offenders who were under age 18 when their crimes were committed. This means that juveniles found guilty of capital murder in Texas must be sentenced to life-without-parole. Currently there are four juveniles serving a sentence of life without parole in the Texas Department of Criminal Justice.
- Before life without parole was instituted, capital murders could result in a sentence of either death or life in prison. Those sentenced to life in prison

were eligible for parole after serving 40 years, without consideration of good conduct time. They may be granted parole only with approval of a two-thirds vote of the entire 18-member Board of Pardons and Paroles and only after receiving a report from the Texas Department of Criminal Justice on the probability that the inmate would commit an offense after being paroled.

**DIGEST:**

CSSB 839 would require that juveniles who had been certified to stand trial as adults and found guilty of capital murder be given life sentences. These defendants would not be eligible for release on parole until their actual calendar time served, without the consideration of good conduct time, equaled 40 years. Jurors in these capital felony trials would have to be informed that a life sentence would be mandatory upon conviction.

The bill would take effect September 1, 2009, and would apply to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

CSSB 839 would allow juveniles who had been certified to stand trial as adults and were convicted of capital murder in Texas to be treated more justly. Currently, these juveniles can be sentenced only to life without parole, a punishment that does not take into account the unique characteristics of juvenile offenders or their diminished culpability. The bill would address this flaw in the state's capital murder punishment scheme by requiring that juveniles convicted of capital murder be given life sentences, which would require that they serve at least 40 calendar years in prison.

CSSB 839 would be a rational approach to this very small set of juvenile offenders who are tried as adults. Holding out the possibility of parole would give these youthful offenders more incentive to behave in prison and would recognize the fact that juvenile offenders show the most potential for rehabilitation. The bill would return the punishment for juvenile capital murders to what it was before the state instituted life without parole in 2005.

CSSB 839 would not mean that juveniles convicted of capital murder were released after 40 years. The bill would establish parole eligibility only and that would occur only after 40 calendar years in prison with no consideration of good conduct time. The Board of Pardons and Paroles would evaluate each case after 40 years and decide whether parole was

appropriate. Even if released on parole, these offenders would be under the supervision of the parole division for the remainder of their life sentences.

The criminal justice system is designed to treat juveniles differently than adults, and so it is appropriate to punish juveniles who commit capital murder differently than adults are punished. The U.S. Supreme Court decision banning the death penalty for those who were juveniles when they committed their crime details the reasons juveniles cannot reliably be classified as among the worst offenders, including their immaturity, vulnerability, and often lack of irretrievable depravity.

**OPPONENTS  
SAY:**

Texas should retain life without parole as a punishment for juveniles who commit capital murder and as a deterrent to others. Life without parole remains an appropriate punishment if a juvenile commits a capital murder — designated as the worst of the worst crimes. In these cases, the juvenile has been identified by the prosecutor and trial court as committing capital murder and the case has been upheld on appeal. The punishment of life without parole can be applied only to those juveniles whom courts have evaluated and have determined should be tried as adults so it is only appropriate that they receive the same punishment as adults.

**NOTES:**

The bill as approved by the Senate would have given the option of sentencing juveniles convicted of capital murder to life without parole or life in prison. The House committee substitute includes an automatic life sentence for juveniles tried as an adult and convicted on capital murder.