



LSG Floor Report—July 11, 2013

HB 4 (Juvenile Justice)

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Committee: Criminal Jurisprudence

Recommendation: Will of the House with Concerns

Legislation relating to punishment for a capital felony committed by an individual younger than 18 years of age failed to pass because of schedule constraints in both the 83rd Regular Session and the 1st Called Session. Governor Perry has added it to the call for the 2nd Called Session. The call states:

Legislation relating to establishing a mandatory sentence of life with parole for a capital felony committed by a 17-year-old offender.

Similar legislation was filed during the regular session of the Legislature as SB 187. The bill passed the Senate on the Local and Uncontested Calendar, but failed to pass on the General State Calendar in the House before the deadline for considering Senate bills. It was filed as SB 23 during the 1st Called Session, where it passed unanimously in the Senate and 95-9 in the House.

Currently, a 17-year-old offender that commits a capital murder is classified as an adult and is eligible for the death penalty or life without parole. However, recent Supreme Court rulings have limited the scope of punishment for individuals younger than 18. A 2005 case, *Roper v. Simmons*, ruled that the death penalty cannot be used for offenders who were younger than 18 when the crime was committed. A 2012 case, *Miller v. Alabama*, ruled that life without the possibility of parole for juvenile offenders was unconstitutional.

As a result of these Supreme Court rulings, punishments available for a 17-year-old capital murder offender in Texas are now unconstitutional. HB 4 puts 17-year-old offenders under the same umbrella as offenders aged 14-16: life in prison with the possibility of parole after 40 years without consideration of good conduct time.

While it is important to bring statute in line with Supreme Court rulings to give prosecutors the ability to properly pursue capital murder charges for 17-year-old offenders, the continuation of mandatory minimum sentences instead of individualized sentencing is concerning. Mandatory sentencing does not allow judges and juries the opportunity to consider the unique circumstances of youth offenders.