

BILL ANALYSIS

H.B. 220
By: Gallego
Criminal Jurisprudence
Committee Report (Amended)

BACKGROUND AND PURPOSE

Scientific evidence is often the sole determinant in restoring liberty to an innocent person who has been wrongfully convicted, but it has not always been a factor in determining guilt or innocence. Currently, a person wrongfully convicted of a crime may apply for a writ of habeas corpus in hopes of regaining freedom. H.B. 220 authorizes a court to grant a convicted person relief on a properly filed application for a writ of habeas corpus containing sufficient facts relating to relevant scientific evidence not available at the time of the convicted person's trial.

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

H.B. 220 amends the Code of Criminal Procedure to authorize a court to grant a convicted person relief on an application for a writ of habeas corpus if the convicted person files in the manner specified by law an application containing sufficient specific facts indicating the following: relevant scientific evidence is currently available and was not available at trial because the evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of or during the person's trial; the scientific evidence would be admissible under the Texas Rules of Evidence at a trial held on the date of application, and the court makes the findings listed above and also finds that, had the scientific evidence been presented at trial, it is reasonably probable the person would not have been convicted. The bill specifies that, for purposes of state law relating to the filing of a subsequent application for writ of habeas corpus, a claim or issue could not have been presented previously in an original application or in a previously considered application if the claim or issue is based on relevant scientific evidence that was not ascertainable through the exercise of reasonable diligence by the convicted person on or before the date on which the original application or a previously considered application was filed. The bill requires a court, in making a finding on whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence on or before a specific date, to consider whether the scientific knowledge or method on which the relevant scientific evidence is based has changed since the applicable trial date or dates for a determination made with respect to an original application, or since the date on which the original application or a previously considered application was filed, for a determination made with respect to a subsequent application determination. The bill makes its provisions applicable to scientific evidence that was not available to be offered by the convicted person at the convicted person's trial or that discredits scientific evidence relied on by the state at trial.

EFFECTIVE DATE

September 1, 2011.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

Committee Amendment No. 1 replaces all references to reasonable diligence with likely diligence.