

By: Whitmire

S.B. No. 317

A BILL TO BE ENTITLED

AN ACT

relating to procedures for applications for writs of habeas corpus based on relevant scientific evidence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 11, Code of Criminal Procedure, is amended by adding Article 11.073 to read as follows:

Art. 11.073. PROCEDURES RELATED TO CERTAIN SCIENTIFIC EVIDENCE. (a) This article applies to relevant scientific evidence that:

(1) was not available to be offered by the convicted person at the convicted person's trial; or

(2) discredits scientific evidence relied on by the state at trial.

(b) A court may grant a convicted person relief on an application for a writ of habeas corpus if:

(1) the convicted person files an application, in the manner provided by Article 11.07, 11.071, or 11.072, containing sufficient specific facts indicating that:

(A) relevant scientific evidence is currently available and was not available at the time of the convicted person's trial because the evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of or during the convicted person's trial; and

(B) the scientific evidence would be admissible

1 under the Texas Rules of Evidence at a trial held on the date of the
2 application; and

3 (2) the court makes the findings described by
4 Subdivisions (1)(A) and (B) and also finds that, had the scientific
5 evidence been presented at trial, it is reasonably probable that
6 the person would not have been convicted.

7 (c) For purposes of Section 4(a)(1), Article 11.07, Section
8 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim
9 or issue could not have been presented previously in an original
10 application or in a previously considered application if the claim
11 or issue is based on relevant scientific evidence that was not
12 ascertainable through the exercise of reasonable diligence by the
13 convicted person on or before the date on which the original
14 application or a previously considered application, as applicable,
15 was filed.

16 (d) In making a finding as to whether relevant scientific
17 evidence was not ascertainable through the exercise of reasonable
18 diligence on or before a specific date, the court shall consider
19 whether the scientific knowledge or method on which the relevant
20 scientific evidence is based has changed since:

21 (1) the applicable trial date or dates, for a
22 determination made with respect to an original application; or

23 (2) the date on which the original application or a
24 previously considered application, as applicable, was filed, for a
25 determination made with respect to a subsequent application.

26 SECTION 2. The change in law made by this Act applies only
27 to an application for a writ of habeas corpus filed on or after the

1 effective date of this Act. An application for a writ of habeas
2 corpus filed before the effective date of this Act is governed by
3 the law in effect at the time the application was filed, and the
4 former law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2011.