

By: Whitmire  
(Turner of Harris, Wu)

S.B. No. 344

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to the procedure for an application for a writ of habeas  
3 corpus based on relevant scientific evidence.

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

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

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

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

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

24 (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, on the preponderance of the  
6 evidence 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

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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, 2013.