

By: González of Dallas, Smith, Moody, Leach,
Bowers

H.B. No. 352

A BILL TO BE ENTITLED

AN ACT

relating to the representation of certain indigent applicants for a writ of habeas corpus.

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

SECTION 1. Article 11.074, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If at any time the state represents to the convicting court that an eligible indigent defendant under Article 1.051 has under a writ of habeas corpus a potentially meritorious claim for relief from a judgment described by Subsection (a) ~~[who was sentenced or had a sentence suspended is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the United States Supreme Court]~~, the court shall appoint an attorney to investigate the claim and represent the indigent defendant for purposes of filing an application for a writ of habeas corpus, if an application has not been filed, or to otherwise represent the indigent defendant in a proceeding based on the application for the writ.

(b-1) For purposes of Subsection (b), a potentially meritorious claim is any claim the court determines is likely to provide relief, including a claim that the defendant:

(1) is or may be actually innocent of the offense;

1 (2) is or may be guilty of only a lesser offense;

2 (3) was or may have been convicted or sentenced under a
3 law that has been found unconstitutional by the court of criminal
4 appeals or the United States Supreme Court; or

5 (4) was or may have been convicted or sentenced in
6 violation of the constitution of this state or the United States.

7 SECTION 2. The change in law made by this Act relating to
8 the application of writ of habeas corpus applies regardless of
9 whether the offense for which the applicant is in custody was
10 committed before, on, or after the effective date of this Act.

11 SECTION 3. This Act takes effect September 1, 2023.