

## **BILL ANALYSIS**

Senate Research Center

S.B. 1948  
By: Whitmire  
Criminal Justice  
8/12/2003  
Enrolled

### **DIGEST AND PURPOSE**

Four years after the Tulia drug sting, 13 Texans remain in prison. The only witness against these individuals has been indicted for perjury. The parties have jointly filed documents with the Court of Criminal Appeals, declaring that it would be a “travesty of justice to permit the convictions to stand.” S.B. 1948 provides for the release on bond of certain applicants for a writ of habeas corpus seeking relief from the judgment in a criminal case, other than an applicant seeking relief from a judgment imposing a death penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 11, Code of Criminal Procedure, by adding Article 11.65, as follows:

Art. 11.65. BOND FOR CERTAIN APPLICANTS. (a) Provides that this article applies to an applicant for a writ of habeas corpus seeking relief from the judgment in a criminal case, other than an applicant seeking relief from a judgment imposing a penalty of death.

(b) Authorizes the convicting court, on making proposed findings of fact and conclusions of law jointly stipulated to by the applicant and the state, or on approving proposed findings of fact and conclusions of law made by an attorney or magistrate appointed by the court to perform that duty and jointly stipulated to by the applicant and the state, to order the release of the applicant on bond, subject to conditions imposed by the convicting court, until the applicant is denied relief, remanded to custody, or ordered released.

(c) Provides that for the purposes of this chapter, an applicant released on bond under this article remains restrained in his liberty.

(d) Provides that Article 44.04(b) does not apply to the release of an applicant on bond under this article.

SECTION 2. Provides that Article 11.65, Code of Criminal Procedure, as added by this Act, applies to:

(1) any applicant who on or after the effective date of this Act applies for a writ of habeas corpus; and

(2) any applicant whose application for a writ of habeas corpus is pending on the effective date of this Act, regardless of when the application was filed.

SECTION 3. Effective date: upon passage or September 1, 2003.