

Amend Floor Amendment No. 1 to **CSHB 498** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. 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 offered by the convicted person at the convicted person's trial; or

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

(b) For purposes of Section 4(a)(1), Article 11.07, Section 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim in a subsequent application could not have been presented previously in a timely initial application or in a previously considered application if the convicting court determines that the claim is based on relevant scientific evidence that was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of trial.

(c) In determining whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of trial, the convicting court or, in a proceeding under Article 11.071, the Court of Criminal Appeals, shall consider whether the scientific knowledge or technique on which the relevant scientific evidence is based has changed, in a manner that is material to the person's conviction, in the period between the date of the convicted person's trial and the date of the subsequent application.

SECTION _____. The change in law made by this Act applies only to an application for a writ of habeas corpus filed on or after the effective date of this Act. An application for a writ of habeas corpus filed before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION _____. This Act takes effect September 1, 2009.