

By: Gallego

H.B. No. 3579

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures for applications for writs of habeas corpus
3 based on scientific evidence establishing the innocence of a
4 criminal defendant.

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

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

8 Art. 11.073. ADDITIONAL PROCEDURES FOR ALL WRITS. (a) A
9 court shall grant a convicted person relief on an application for a
10 writ of habeas corpus if the convicted person files an application,
11 in the manner provided by Article 11.07, 11.071, or 11.072,
12 containing sufficient specific facts indicating that:

13 (1) scientific evidence establishing the convicted
14 person's innocence is available and was not available at the time of
15 the convicted person's trial because:

16 (A) the evidence was not ascertainable through
17 the exercise of reasonable diligence by the convicted person before
18 the date of or during the convicted person's trial; or

19 (B) the evidence was not admissible under the
20 Texas Rules of Evidence;

21 (2) the scientific evidence would be admissible under
22 the Texas Rules of Evidence at a trial held on the date of the
23 application; and

24 (3) by a preponderance of the evidence, no rational

1 trier of fact could have found the applicant guilty beyond a
2 reasonable doubt if the scientific evidence had been presented at
3 trial.

4 (b) Notwithstanding any other provision of this chapter, if
5 a court finds that scientific evidence exists that was not
6 available at the time of a convicted person's trial, the court may
7 grant relief on the application for a writ of habeas corpus under
8 this chapter regardless of whether the convicted person has
9 previously filed an application under this chapter.

10 (c) Notwithstanding any other provision of this chapter, a
11 convicted person who entered a plea of guilty or nolo contendere or
12 who made a confession or similar admission before or after
13 conviction may submit an application for a writ of habeas corpus as
14 provided by this section. The convicting court may not deny relief
15 on the application authorized by this subsection based solely on
16 the applicant's plea, confession, or admission.

17 SECTION 2. The change in law made by this Act applies only
18 to an application for a writ of habeas corpus filed on or after the
19 effective date of this Act. An application for a writ of habeas
20 corpus filed before the effective date of this Act is governed by
21 the law in effect at the time the application was filed, and the
22 former law is continued in effect for that purpose.

23 SECTION 3. This Act takes effect September 1, 2009.