

By: Whitmire, Hinojosa

S.B. No. 1976

A BILL TO BE ENTITLED

AN ACT

relating to procedures for applications for writs of habeas corpus based on relevant evidence discrediting scientific evidence presented at trial.

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

SECTION 1. Subsection (a), Section 4, Article 11.07, Code of Criminal Procedure, is amended to read as follows:

(a) If a subsequent application for writ of habeas corpus is filed after final disposition of an initial application challenging the same conviction, a court may not consider the merits of or grant relief based on the subsequent application unless the application contains sufficient specific facts establishing that:

(1) the current claims and issues, including a claim that scientific evidence presented at trial has been discredited, have not been and could not have been presented previously in an original application or in a previously considered application filed under this article because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application; or

(2) by a preponderance of the evidence, but for a violation of the United States Constitution no rational juror could have found the applicant guilty beyond a reasonable doubt.

SECTION 2. Subsection (a), Section 5, Article 11.071, Code of Criminal Procedure, is amended to read as follows:

1           (a) If a subsequent application for a writ of habeas corpus  
2 is filed after filing an initial application, a court may not  
3 consider the merits of or grant relief based on the subsequent  
4 application unless the application contains sufficient specific  
5 facts establishing that:

6           (1) the current claims and issues, including a claim  
7 that scientific evidence presented at trial has been discredited,  
8 have not been and could not have been presented previously in a  
9 timely initial application or in a previously considered  
10 application filed under this article or Article 11.07 because the  
11 factual or legal basis for the claim was unavailable on the date the  
12 applicant filed the previous application;

13           (2) by a preponderance of the evidence, but for a  
14 violation of the United States Constitution no rational juror could  
15 have found the applicant guilty beyond a reasonable doubt; or

16           (3) by clear and convincing evidence, but for a  
17 violation of the United States Constitution no rational juror would  
18 have answered in the state's favor one or more of the special issues  
19 that were submitted to the jury in the applicant's trial under  
20 Article 37.071, 37.0711, or 37.072.

21           SECTION 3. The change in law made by this Act applies only  
22 to an application for a writ of habeas corpus filed on or after the  
23 effective date of this Act. An application for a writ of habeas  
24 corpus filed before the effective date of this Act is governed by  
25 the law in effect at the time the application was filed, and the  
26 former law is continued in effect for that purpose.

27           SECTION 4. This Act takes effect September 1, 2009.