

By: Whitmire, et al.

S.B. No. 1976

Substitute the following for S.B. No. 1976:

By: Gallego

C.S.S.B. No. 1976

A BILL TO BE ENTITLED

AN ACT

relating to procedures for applications for writs of habeas corpus
based on relevant scientific evidence.

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

SECTION 1. 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 available to be offered by the convicted
person at the convicted person's trial; or

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

(b) A court may grant a convicted person relief on an
application for a writ of habeas corpus if the convicted person
files an application, in the manner provided by Article 11.07,
11.071, or 11.072, containing sufficient specific facts indicating
that:

(1) relevant scientific evidence is available and was
not available at the time of the convicted person's trial because
the evidence was not ascertainable through the exercise of
reasonable diligence by the convicted person before the date of or
during the convicted person's trial;

(2) the scientific evidence would be admissible under

1 the Texas Rules of Evidence at a trial held on the date of the
2 application; and

3 (3) the court finds that, had the scientific evidence
4 been presented at trial, it is reasonably probable that the person
5 would not have been convicted.

6 (c) For purposes of Section 4(a)(1), Article 11.07, Section
7 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim
8 or issue could not have been presented previously in an original
9 application or in a previously considered application if the claim
10 or issue is based on relevant scientific evidence that was not
11 ascertainable through the exercise of reasonable diligence by the
12 convicted person on or before the date on which the original
13 application or a previously considered application, as applicable,
14 was filed.

15 (d) In determining whether relevant scientific evidence was
16 not ascertainable through the exercise of reasonable diligence on
17 or before a specific date, the court shall consider whether the
18 scientific knowledge or method on which the relevant scientific
19 evidence is based has changed since:

20 (1) the applicable trial date or dates, for a
21 determination made with respect to an original application; or

22 (2) the date on which the original application or a
23 previously considered application, as applicable, was filed, for a
24 determination made with respect to a subsequent application.

25 SECTION 2. The change in law made by this Act applies only
26 to an application for a writ of habeas corpus filed on or after the
27 effective date of this Act. An application for a writ of habeas

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1 corpus filed before the effective date of this Act is governed by
2 the law in effect at the time the application was filed, and the
3 former law is continued in effect for that purpose.

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