

1-1 By: Whitmire S.B. No. 1976
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 6, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 6, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1976 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to procedures for applications for writs of habeas corpus
1-11 based on relevant scientific evidence establishing the innocence of
1-12 a criminal defendant.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 11, Code of Criminal Procedure, is
1-15 amended by adding Article 11.073 to read as follows:

1-16 Art. 11.073. ADDITIONAL PROCEDURES FOR ALL WRITS. (a) A
1-17 court shall grant a convicted person relief on an application for a
1-18 writ of habeas corpus if the convicted person files an application,
1-19 in the manner provided by Article 11.07, 11.071, or 11.072,
1-20 containing sufficient specific facts indicating that:

1-21 (1) relevant scientific evidence is available and was
1-22 not available at the time of the convicted person's trial because:

1-23 (A) the evidence was not ascertainable through
1-24 the exercise of reasonable diligence by the convicted person before
1-25 the date of or during the convicted person's trial; or

1-26 (B) the evidence was not admissible under the
1-27 Texas Rules of Evidence;

1-28 (2) the scientific evidence would be admissible under
1-29 the Texas Rules of Evidence at a trial held on the date of the
1-30 application; and

1-31 (3) the court finds that, had the scientific evidence
1-32 been presented at trial, it is reasonably probable that the person
1-33 would not have been convicted.

1-34 (b) Notwithstanding any other provision of this chapter, if
1-35 a court finds that relevant scientific evidence exists that was not
1-36 available at the time of a convicted person's trial, the court may
1-37 grant relief on the application for a writ of habeas corpus under
1-38 this chapter regardless of whether the convicted person has
1-39 previously filed an application under this chapter.

1-40 (c) Notwithstanding any other provision of this chapter, a
1-41 convicted person who entered a plea of guilty or nolo contendere or
1-42 who made a confession or similar admission before or after
1-43 conviction may submit an application for a writ of habeas corpus as
1-44 provided by this section. The convicting court may not deny relief
1-45 on the application authorized by this subsection based solely on
1-46 the applicant's plea, confession, or admission.

1-47 SECTION 2. The change in law made by this Act applies only
1-48 to an application for a writ of habeas corpus filed on or after the
1-49 effective date of this Act. An application for a writ of habeas
1-50 corpus filed before the effective date of this Act is governed by
1-51 the law in effect at the time the application was filed, and the
1-52 former law is continued in effect for that purpose.

1-53 SECTION 3. This Act takes effect September 1, 2009.

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