

AN ACT

relating to representation of certain applicants for writs of habeas corpus in cases involving the death penalty.

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

SECTION 1. Section 6, Article 11.071, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) If the convicting court receives notice that the requirements of Section 5(a) for consideration of a subsequent application have been met and if the applicant has not elected to proceed pro se and is not represented by retained counsel, the convicting court shall appoint, in order of priority:

(1) the attorney who represented the applicant in the proceedings under Section 5, if the attorney seeks the appointment;

(2) the office of capital writs, if the office represented the applicant in the proceedings under Section 5 or otherwise accepts the appointment; or

(3) counsel from a list of competent counsel maintained by the presiding judges of the administrative judicial regions under Section 78.056, Government Code, if the office of capital writs:

(A) did not represent the applicant as described by Subdivision (2); or

(B) does not accept or is prohibited from

1 accepting the appointment under Section 78.054, Government Code.

2 (b-2) Regardless of whether the subsequent application is
3 ultimately dismissed, compensation and reimbursement of expenses
4 for counsel appointed under Subsection (b-1) shall be provided as
5 described by Section 2, 2A, or 3, including compensation for time
6 previously spent and reimbursement of expenses previously incurred
7 with respect to the subsequent application.

8 SECTION 2. The change in law made by this Act applies to a
9 subsequent application for a writ of habeas corpus filed on or after
10 January 1, 2012. A subsequent application filed before January 1,
11 2012, is covered by the law in effect when the application was
12 filed, and the former law is continued in effect for that purpose.

13 SECTION 3. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1646 was passed by the House on May 13, 2011, by the following vote: Yeas 117, Nays 27, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1646 on May 27, 2011, by the following vote: Yeas 132, Nays 5, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1646 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

APPROVED: _____

Date

Governor