

1-1 By: Gallego (Senate Sponsor - Ellis) H.B. No. 1646
1-2 (In the Senate - Received from the House May 16, 2011;
1-3 May 16, 2011, read first time and referred to Committee on Criminal
1-4 Justice; May 23, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 23, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1646 By: Ellis

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

1-10 relating to representation of certain applicants for writs of
1-11 habeas corpus in cases involving the death penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 6, Article 11.071, Code of Criminal
1-14 Procedure, is amended by adding Subsections (b-1) and (b-2) to read
1-15 as follows:

1-16 (b-1) If the convicting court receives notice that the
1-17 requirements of Section 5(a) for consideration of a subsequent
1-18 application have been met and if the applicant has not elected to
1-19 proceed pro se and is not represented by retained counsel, the
1-20 convicting court shall appoint, in order of priority:

1-21 (1) the attorney who represented the applicant in the
1-22 proceedings under Section 5, if the attorney seeks the appointment;

1-23 (2) the office of capital writs, if the office
1-24 represented the applicant in the proceedings under Section 5 or
1-25 otherwise accepts the appointment; or

1-26 (3) counsel from a list of competent counsel
1-27 maintained by the presiding judges of the administrative judicial
1-28 regions under Section 78.056, Government Code, if the office of
1-29 capital writs:

1-30 (A) did not represent the applicant as described
1-31 by Subdivision (2); or

1-32 (B) does not accept or is prohibited from
1-33 accepting the appointment under Section 78.054, Government Code.

1-34 (b-2) Regardless of whether the subsequent application is
1-35 ultimately dismissed, compensation and reimbursement of expenses
1-36 for counsel appointed under Subsection (b-1) shall be provided as
1-37 described by Section 2, 2A, or 3, including compensation for time
1-38 previously spent and reimbursement of expenses previously incurred
1-39 with respect to the subsequent application.

1-40 SECTION 2. The change in law made by this Act applies to a
1-41 subsequent application for a writ of habeas corpus filed on or after
1-42 January 1, 2012. A subsequent application filed before January 1,
1-43 2012, is covered by the law in effect when the application was
1-44 filed, and the former law is continued in effect for that purpose.

1-45 SECTION 3. This Act takes effect September 1, 2011.

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