

By: West

S.B. No. 252

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures regarding an application for a writ of habeas corpus filed in a noncapital felony case.

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

SECTION 1. Section 3(d), Article 11.07, Code of Criminal Procedure, is amended to read as follows:

(d) If the convicting court decides that there are controverted, previously unresolved facts which are material to the legality of the applicant's confinement, it shall enter an order within 20 days of the expiration of the time allowed for the state to reply, designating the issues of fact to be resolved. To resolve those issues the court may order affidavits, depositions, interrogatories, additional forensic testing, and hearings, as well as using personal recollection. The state shall pay the cost of additional forensic testing ordered under this subsection, except that the applicant shall pay the cost of the testing if the applicant retains counsel for purposes of filing an application under this article. The convicting court may appoint an attorney or a magistrate to hold a hearing and make findings of fact. An attorney so appointed shall be compensated as provided in Article 26.05 of this code. It shall be the duty of the reporter who is designated to transcribe a hearing held pursuant to this article to prepare a transcript within 15 days of its conclusion. On completion of the transcript, the reporter shall immediately

1 transmit the transcript to the clerk of the convicting court. After
2 the convicting court makes findings of fact or approves the
3 findings of the person designated to make them, the clerk of the
4 convicting court shall immediately transmit to the Court of
5 Criminal Appeals, under one cover, the application, any answers
6 filed, any motions filed, transcripts of all depositions and
7 hearings, any affidavits, and any other matters such as official
8 records used by the court in resolving issues of fact.

9 SECTION 2. Section 3(d), Article 11.07, Code of Criminal
10 Procedure, as amended by this Act, applies only to an application
11 for a writ of habeas corpus filed on or after the effective date of
12 this Act. An application filed before the effective date of this
13 Act is covered by the law in effect when the application was filed,
14 and the former law is continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2013.