

1-1 By: Whitmire S.B. No. 344  
 1-2 (In the Senate - Filed February 4, 2013; February 5, 2013,  
 1-3 read first time and referred to Committee on Criminal Justice;  
 1-4 March 18, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 4, Nays 1; March 18, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10				
1-11			X	
1-12	X			
1-13			X	
1-14	X			
1-15		X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 344 By: Whitmire

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the procedure for an application for a writ of habeas  
 1-20 corpus based on relevant scientific evidence.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 11, Code of Criminal Procedure, is  
 1-23 amended by adding Article 11.073 to read as follows:

1-24 Art. 11.073. PROCEDURE RELATED TO CERTAIN SCIENTIFIC  
 1-25 EVIDENCE. (a) This article applies to relevant scientific  
 1-26 evidence that:

1-27 (1) was not available to be offered by a convicted  
 1-28 person at the convicted person's trial; or

1-29 (2) contradicts scientific evidence relied on by the  
 1-30 state at trial.

1-31 (b) A court may grant a convicted person relief on an  
 1-32 application for a writ of habeas corpus if:

1-33 (1) the convicted person files an application, in the  
 1-34 manner provided by Article 11.07, 11.071, or 11.072, containing  
 1-35 specific facts indicating that:

1-36 (A) relevant scientific evidence is currently  
 1-37 available and was not available at the time of the convicted  
 1-38 person's trial because the evidence was not ascertainable through  
 1-39 the exercise of reasonable diligence by the convicted person before  
 1-40 the date of or during the convicted person's trial; and

1-41 (B) the scientific evidence would be admissible  
 1-42 under the Texas Rules of Evidence at a trial held on the date of the  
 1-43 application; and

1-44 (2) the court makes the findings described by  
 1-45 Subdivisions (1)(A) and (B) and also finds that, had the scientific  
 1-46 evidence been presented at trial, upon preponderance of the  
 1-47 evidence the person would not have been convicted.

1-48 (c) For purposes of Section 4(a)(1), Article 11.07, Section  
 1-49 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim  
 1-50 or issue could not have been presented previously in an original  
 1-51 application or in a previously considered application if the claim  
 1-52 or issue is based on relevant scientific evidence that was not  
 1-53 ascertainable through the exercise of reasonable diligence by the  
 1-54 convicted person on or before the date on which the original  
 1-55 application or a previously considered application, as applicable,  
 1-56 was filed.

1-57 (d) In making a finding as to whether relevant scientific  
 1-58 evidence was not ascertainable through the exercise of reasonable  
 1-59 diligence on or before a specific date, the court shall consider  
 1-60 whether the scientific knowledge or method on which the relevant

2-1 scientific evidence is based has changed since:

2-2 (1) the applicable trial date or dates, for a

2-3 determination made with respect to an original application; or

2-4 (2) the date on which the original application or a

2-5 previously considered application, as applicable, was filed, for a

2-6 determination made with respect to a subsequent application.

2-7 SECTION 2. The change in law made by this Act applies only  
2-8 to an application for a writ of habeas corpus filed on or after the  
2-9 effective date of this Act. An application for a writ of habeas  
2-10 corpus filed before the effective date of this Act is governed by  
2-11 the law in effect at the time the application was filed, and the  
2-12 former law is continued in effect for that purpose.

2-13 SECTION 3. This Act takes effect September 1, 2013.

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