

By: West

S.B. No. 354

A BILL TO BE ENTITLED

AN ACT

relating to permitting electronic delivery of certain documents in a criminal case.

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

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

(b) An application for writ of habeas corpus filed after final conviction in a felony case, other than a case in which the death penalty is imposed, must be filed with the clerk of the court in which the conviction being challenged was obtained, and the clerk shall assign the application to that court. When the application is received by that court, a writ of habeas corpus, returnable to the Court of Criminal Appeals, shall issue by operation of law. The clerk of that court shall make appropriate notation thereof, assign to the case a file number (ancillary to that of the conviction being challenged), and forward a copy of the application by certified mail, return receipt requested, by secure electronic mail, or by personal service to the attorney representing the state in that court, who shall answer the application not later than the 15th day after the date the copy of the application is received. Matters alleged in the application not admitted by the state are deemed denied.

SECTION 2. Subsection (c), Section 6, Article 11.071, Code of Criminal Procedure, is amended to read as follows:

(c) The clerk of the convicting court shall:

(1) make an appropriate notation that a writ of habeas corpus was issued;

(2) assign to the case a file number that is ancillary to that of the conviction being challenged; and

(3) send a copy of the application by certified mail, return receipt requested, or by secure electronic mail to the attorney representing the state in that court.

SECTION 3. Subsection (b), Section 7, Article 11.072, Code of Criminal Procedure, is amended to read as follows:

(b) At the time an order is entered under this section, the clerk of the court shall immediately, by certified mail, return receipt requested, or by secure electronic mail, send a copy of the order to the applicant and to the state.

SECTION 4. Section 4, Article 38.41, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. Not later than the 20th day before the trial begins in a proceeding in which a certificate of analysis under this article is to be introduced, the certificate must be filed with the clerk of the court and a copy must be provided by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the opposing party. The certificate is not admissible under Section 1 if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the certificate with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the

1 offering party.

2 SECTION 5. Section 4, Article 38.42, Code of Criminal
3 Procedure, is amended to read as follows:

4 Sec. 4. Not later than the 20th day before the trial begins
5 in a proceeding in which a chain of custody affidavit under this
6 article is to be introduced, the affidavit must be filed with the
7 clerk of the court and a copy must be provided by fax, secure
8 electronic mail, hand delivery, or certified mail, return receipt
9 requested, to the opposing party. The affidavit is not admissible
10 under Section 1 if, not later than the 10th day before the trial
11 begins, the opposing party files a written objection to the use of
12 the affidavit with the clerk of the court and provides a copy of the
13 objection by fax, secure electronic mail, hand delivery, or
14 certified mail, return receipt requested, to the offering party.

15 SECTION 6. The changes in law made by this Act apply only to
16 a legal document delivered, filed, or served on or after the
17 effective date of this Act. A legal document delivered, filed, or
18 served before the effective date of this Act is governed by the law
19 in effect before the effective date of this Act, and the former law
20 is continued in effect for that purpose.

21 SECTION 7. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2013.