

BILL ANALYSIS

S.B. 1743
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Reports have indicated that the adversarial process is not well suited to the task of finding scientific truth in a proceeding for a writ of habeas corpus based on certain issues with scientific evidence. Most criminal defense lawyers know very little about science and are often unable to identify forensic science errors or challenge those errors effectively through the writ process. Interested parties contend that allowing the office of capital writs to create a division dedicated to forensic writs in non-capital cases is a sensible and efficient approach to this issue because the office already has experience dealing with a specialized and highly technical area of the law in capital cases. The forensic division would be built slowly and thoughtfully to ensure a deliberate approach to representing clients in the most compelling cases, whether it be cases involving misconduct by a forensic examiner or forensic disciplines facing national scrutiny due to questions about validity and application in criminal convictions. The parties note that the forensic division of the office would not be the sole answer to indigent representation for forensic science cases but would provide a much needed resource for members of the private criminal defense bar who are also interested in taking these cases. S.B. 1743 seeks to enable the development of this division.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1743 amends the Government Code to rename the office of capital writs as the office of capital and forensic writs and to rename the capital writs committee as the capital and forensic writs committee. The bill expands the disqualification of a person from service as the office's director or employment by the director as an attorney to include a person who has been found by a state or federal court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case. The bill requires the director to employ or retain experts necessary to perform the office's duties.

S.B. 1743 expands the actions and proceedings in which the office is authorized to represent a defendant to include an action or proceeding that is conducted under Code of Criminal Procedure provisions governing procedures for a writ of habeas corpus based on certain issues with scientific evidence, that is collateral to the preparation of an application for such a writ, or that concerns any other post-conviction matter in a case that involves a forensic science issue. The bill authorizes the office to consult with law school clinics with applicable knowledge and

experience and with other experts as necessary to investigate the facts of a particular case.

S.B. 1743 amends the Code of Criminal Procedure to make conforming changes.

EFFECTIVE DATE

September 1, 2015.