

By: Moody, Guillen

H.B. No. 464

A BILL TO BE ENTITLED

AN ACT

relating to certain procedures for and relief that may be granted pursuant to an application for a writ of habeas corpus.

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

SECTION 1. Article 11.073(b), Code of Criminal Procedure, is amended to read as follows:

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

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

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

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

(2) the court makes the findings described by Subdivisions (1)(A) and (B) and also finds that, had the scientific evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted or would have received a different punishment.

1 SECTION 2. Article 11.074, Code of Criminal Procedure, is
2 amended by amending Subsection (b) and adding Subsection (b-1) to
3 read as follows:

4 (b) If at any time the state represents to the convicting
5 court that an eligible indigent defendant under Article 1.051 has
6 under a writ of habeas corpus a potentially meritorious claim for
7 relief from a judgment described by Subsection (a) [who was
8 sentenced or had a sentence suspended is not guilty, is guilty of
9 only a lesser offense, or was convicted or sentenced under a law
10 that has been found unconstitutional by the court of criminal
11 appeals or the United States Supreme Court], the court shall
12 appoint an attorney to investigate the claim and represent the
13 indigent defendant for purposes of filing an application for a writ
14 of habeas corpus, if an application has not been filed, or to
15 otherwise represent the indigent defendant in a proceeding based on
16 the application for the writ.

17 (b-1) For purposes of Subsection (b), a potentially
18 meritorious claim is any claim the court determines is likely to
19 provide relief, including a claim that the defendant:

20 (1) is or may be actually innocent of the offense;

21 (2) is or may be guilty of only a lesser offense;

22 (3) was or may have been convicted or sentenced under a
23 law that has been found unconstitutional by the court of criminal
24 appeals or the United States Supreme Court; or

25 (4) was or may have been convicted or sentenced in
26 violation of the constitution of this state or the United States.

27 SECTION 3. Article 11.073, Code of Criminal Procedure, as

1 amended by this Act, applies only to an application for a writ of
2 habeas corpus filed on or after the effective date of this Act. An
3 application filed before the effective date of this Act is governed
4 by the law in effect when the application was filed, and the former
5 law is continued in effect for that purpose.

6 SECTION 4. The change in law made by this Act to Article
7 [11.074](#), Code of Criminal Procedure, relating to an application
8 filed for a writ of habeas corpus applies regardless of whether the
9 offense for which the applicant is in custody was committed before,
10 on, or after the effective date of this Act.

11 SECTION 5. This Act takes effect December 1, 2019.