By: Thompson of Harris H.B. No. 3426

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for an application for a writ of habeas corpus based on certain new evidence.

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

SECTION 1. Chapter 11, Code of Criminal Procedure, is amended by adding Article 11.0732 to read as follows:

Art. 11.0732. PROCEDURE RELATED TO CERTAIN NEW EVIDENCE. (a) This article applies to evidence, other than evidence described by Article 11.073(a), that:

(1) was not available to be offered by a convicted person at the person's trial; and

(2) is material to the person's conviction.

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

(B) the 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 evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted.

(c) For purposes of Section 4(a)(1), Article 11.07, Section 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim or issue could not have been presented previously in an original application or in a previously considered application if the claim or issue is based on evidence described by Subsection (a) that was not ascertainable through the exercise of reasonable diligence by the convicted person on or before the date on which the original application or a previously considered application, as applicable, was filed.

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

SECTION 3. This Act takes effect September 1, 2019.