

BILL ANALYSIS

Senate Research Center
87R689 ADM-D

H.B. 1126
By: Anchia (Johnson)
Criminal Justice
5/17/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised regarding the deadline by which the state's attorney in a felony case imposing a penalty other than death is required to answer an application for a writ of habeas corpus filed after final conviction in the case. It has been suggested that the current time frame within which the attorney is required to respond is insufficient. In order to ensure a fair criminal justice system, public servants must have all the resources, including time, to make thoughtful decisions. There have been calls to allow enough time for the careful examination of these applications without the pressure of a tightly constrained deadline. H.B. 1126 seeks to address this issue by extending the deadline for answering such an application.

H.B. 1126 amends current law relating to an application for a writ of habeas corpus in certain felony cases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3(b), Article 11.07, Code of Criminal Procedure, as follows:

(b) Requires the clerk of the court in which the conviction being challenged was obtained, for an application for writ of habeas corpus filed after final conviction in a felony case, to 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 is required to answer the application not later than the 30th day, rather than not later than the 15th day, after the date the copy of the application is received.

SECTION 2. Makes application of Section 3(b), Article 11.07, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.