87R1461 MAW-F

By:  West S.B. No. 1866

A BILL TO BE ENTITLED

AN ACT

relating to the consideration of a subsequent writ of habeas corpus in certain felony cases.

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

SECTION 1.  Section 4, Article 11.07, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a)  If a subsequent application for writ of habeas corpus is filed after final disposition of an initial application challenging the same conviction, a court may not consider the merits of or grant relief based on the subsequent application unless [~~the application contains sufficient specific facts establishing that~~]:

(1)  the application contains sufficient specific facts establishing that the current claims and issues have not been and could not have been presented previously in an original application or in a previously considered application filed under this article because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application; [~~or~~]

(2)  the application contains sufficient specific facts establishing that by a preponderance of the evidence, but for a violation of the United States Constitution no rational juror could have found the applicant guilty beyond a reasonable doubt; or

(3)  the attorney representing the state having primary responsibility for the prosecution of similar cases in the jurisdiction consents in writing to the court's consideration of and ruling on the merits of the application.

(d)  In this section, "attorney representing the state" means a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction. The term does not include an assistant prosecuting attorney.

SECTION 2.  Section 4(a), Article 11.07, Code of Criminal Procedure, as amended 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 on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2021.