

By: West

S.B. No. 1866

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the consideration of a subsequent writ of habeas corpus
3 in certain felony cases.

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

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

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

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

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

24 (3) the attorney representing the state having primary

1 responsibility for the prosecution of similar cases in the
2 jurisdiction consents in writing to the court's consideration of
3 and ruling on the merits of the application.

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

8 SECTION 2. Section 4(a), Article [11.07](#), Code of Criminal
9 Procedure, as amended by this Act, applies only to an application
10 for a writ of habeas corpus filed on or after the effective date of
11 this Act. An application filed before the effective date of this
12 Act is governed by the law in effect on the date the application was
13 filed, and the former law is continued in effect for that purpose.

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