

BILL ANALYSIS

H.B. 2698
By: Anchía
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee of concerns that potentially meritorious claims by indigent defendants of unlawful detention are not being thoroughly addressed and that these defendants are not given legal representation with regard to such claims. H.B. 2698 seeks to ensure that indigent defendants are not being unlawfully detained by expanding the types of claims that necessitate a court's appointment of an attorney to investigate claims for habeas corpus relief and the representation of an indigent defendant.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2698 amends the Code of Criminal Procedure to expand the conditions under which a convicting court is required to appoint an attorney to represent an eligible indigent defendant for purposes of filing an application for a writ of habeas corpus, which currently include if the state represents to the court that an eligible defendant is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court, by requiring the court to do so if the state represents to the court that the defendant has a potentially meritorious claim for relief from the judgment that the court determines is likely to provide relief, including a claim that the defendant:

- is or may be actually innocent of the offense;
- is or may be guilty of only a lesser offense;
- was or may have been convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the U.S. Supreme Court; or
- was or may have been convicted or sentenced in violation of the Texas or U.S. Constitution.

The bill also includes investigating the claim as a purpose of that required appointment.

H.B. 2698 applies to a defendant in custody on or after the bill's effective date, regardless of whether the offense for which the defendant is in custody was committed before, on, or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.