

By: Cook

H.B. No. 115

A BILL TO BE ENTITLED

AN ACT

relating to applications for a writ of habeas corpus after conviction.

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

SECTION 1. Article 1.051(d), Code of Criminal Procedure, is amended to read as follows:

(d) An eligible indigent defendant is entitled to have the trial court appoint an attorney to represent him in the following appellate and postconviction habeas corpus matters:

(1) an appeal to a court of appeals;

(2) an appeal to the Court of Criminal Appeals if the appeal is made directly from the trial court or if a petition for discretionary review has been granted;

(3) a habeas corpus proceeding if the court concludes that the interests of justice require representation or the defendant raises a claim under Article 11.073; and

(4) any other appellate proceeding if the court concludes that the interests of justice require representation.

SECTION 2. Section 5, Article 11.07, Code of Criminal Procedure, is amended to read as follows:

Sec. 5. The Court of Criminal Appeals may deny relief upon the findings and conclusions of the hearing judge without docketing the cause, or may direct that the cause be docketed and heard as though originally presented to said court or as an appeal. Upon

1 reviewing the record the court shall enter its judgment remanding
2 the applicant to custody or ordering his release, as the law and
3 facts may justify. The mandate of the court shall issue to the
4 court issuing the writ, as in other criminal cases. After
5 conviction the procedure outlined in this Act shall be exclusive
6 and any other proceeding shall be void and of no force and effect in
7 discharging the prisoner. The court may not deny relief under
8 Article 11.073 except by written decision addressing the substance
9 of the claim.

10 SECTION 3. Section 5, Article 11.071, Code of Criminal
11 Procedure, is amended by adding Subsection (g) to read as follows:

12 (g) Notwithstanding any other provision of this section,
13 the court of criminal appeals may consider a subsequent application
14 that fails to satisfy the requirements of Subsection (a) if the
15 court finds that justice requires the court to consider the
16 application. If the court of criminal appeals makes the finding
17 described by this subsection, the convicting court may take further
18 action on the application. If the court of criminal appeals does
19 not make the finding described by this subsection, the court shall
20 issue an order dismissing the application as an abuse of the writ
21 under this section.

22 SECTION 4. Section 6(b-1), Article 11.071, Code of Criminal
23 Procedure, is amended to read as follows:

24 (b-1) If the convicting court receives notice that the
25 requirements of Section 5 ~~[5(a)]~~ for consideration of a subsequent
26 application have been met and if the applicant has not elected to
27 proceed pro se and is not represented by retained counsel, the

convicting court shall appoint, in order of priority:

(1) the attorney who represented the applicant in the proceedings under Section 5, if the attorney seeks the appointment;

(2) the office of capital and forensic writs, if the office represented the applicant in the proceedings under Section 5 or otherwise accepts the appointment; or

(3) counsel from a list of competent counsel maintained by the presiding judges of the administrative judicial regions under Section 78.056, Government Code, if the office of capital and forensic writs:

(A) did not represent the applicant as described by Subdivision (2); or

(B) does not accept or is prohibited from accepting the appointment under Section 78.054, Government Code.

SECTION 5. Article 11.073(a)-(c), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies to relevant scientific evidence that:

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

(2) contradicts or tends to negate scientific evidence relied on by the state at trial.

(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:

1 (A) relevant scientific evidence is currently
2 available and was not available at the time of the convicted
3 person's trial because the evidence was not ascertainable through
4 the exercise of reasonable diligence by the convicted person before
5 the date of or during the convicted person's trial; and

6 (B) the scientific evidence would be admissible
7 under the Texas Rules of Evidence at a trial held on the date of the
8 application; and

9 (2) the court makes the findings described by
10 Subdivisions (1)(A) and (B) and also finds that, had the scientific
11 evidence been presented at trial, ~~[on the preponderance of the~~
12 ~~evidence]~~ there is a reasonable likelihood the scientific evidence
13 could have affected the person's conviction or the punishment the
14 person received.

15 (c) ~~[For purposes of]~~ Section 4(a), Article 11.07, Section
16 5(a), Article 11.071, and Section 9(a), Article 11.072, only apply
17 to a claim under this article if the claim has been presented
18 previously in an application filed by an attorney ~~[a claim or issue~~
19 ~~could not have been presented previously in an original application~~
20 ~~or in a previously considered application if the claim or issue is~~
21 ~~based on relevant scientific evidence that was not ascertainable~~
22 ~~through the exercise of reasonable diligence by the convicted~~
23 ~~person on or before the date on which the original application or a~~
24 ~~previously considered application, as applicable, was filed].~~

25 SECTION 6. Chapter 11, Code of Criminal Procedure, is
26 amended by adding Article 11.66 to read as follows:

27 Art. 11.66. WRIT TO INVOKE DISTRICT COURT JURISDICTION FOR

1 PURPOSE OF OBTAINING RELEVANT DOCUMENTS FOR POSTCONVICTION WRIT OF
2 HABEAS CORPUS APPLICATION. (a) A person may file a writ under this
3 article in a district court for the purpose of invoking the court's
4 jurisdiction to obtain documents described by Subsection (b)(2)(B)
5 related to filing an application for a writ of habeas corpus under
6 this chapter.

7 (b) A person may file a petition for a writ under this
8 article only if:

9 (1) the person is an attorney licensed in this state;

10 (2) the person affirms in the petition that:

11 (A) the person is seeking to file an application
12 for a writ of habeas corpus on behalf of an applicant after a final
13 conviction; and

14 (B) the person cannot in good faith file the
15 application until the person obtains documents relevant to a ground
16 for relief in the application; and

17 (3) the person provides the office of the attorney
18 representing the state in the applicant's case with reasonable
19 notice of the person's intention to file a petition for a writ under
20 this article.

21 (c) A district court's jurisdiction under this article is
22 limited only to matters relating to:

23 (1) a petition for a writ under this article; and

24 (2) the issuance of documents requested by the
25 petition for a writ under this article.

26 SECTION 7. Section 24.011, Government Code, is amended to
27 read as follows:

1 Sec. 24.011. WRIT POWER. A judge of a district court may,
2 either in termtime or vacation, grant a writ [~~writs~~] of mandamus,
3 injunction, sequestration, attachment, garnishment, certiorari,
4 and supersedeas, a writ to issue documents under Article 11.66,
5 Code of Criminal Procedure, and any [~~all~~] other writ [~~writs~~]
6 necessary to the enforcement of the court's jurisdiction.

7 SECTION 8. The changes in law made by the Act apply only to
8 an application for a writ of habeas corpus filed on or after the
9 effective date of this Act. An application filed before the
10 effective date of this Act is governed by the law in effect when the
11 application was filed, and the former law is continued in effect for
12 that purpose.

13 SECTION 9. This Act takes effect December 1, 2025.