

By: Moody

H.B. No. 444

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to an application for a writ of habeas corpus based on  
3 certain relevant scientific evidence that was not available at the  
4 applicant's trial.

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

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

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

11 (1) an appeal to a court of appeals;

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

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

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

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

22 Sec. 5. The Court of Criminal Appeals may deny relief upon  
23 the findings and conclusions of the hearing judge without docketing  
24 the cause, or may direct that the cause be docketed and heard as

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

10 SECTION 3. Article 11.073(a)-(c), Code of Criminal  
11 Procedure, are amended to read as follows:

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

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

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

18 (b) A court may grant a convicted person relief on an  
19 application for a writ of habeas corpus if:

20 (1) the convicted person files an application, in the  
21 manner provided by Article 11.07, 11.071, or 11.072, containing  
22 specific facts indicating that:

23 (A) relevant scientific evidence is currently  
24 available and was not available at the time of the convicted  
25 person's trial because the evidence was not ascertainable through  
26 the exercise of reasonable diligence by the convicted person before  
27 the date of or during the convicted person's trial; and

1 (B) the scientific evidence would be admissible  
2 under the Texas Rules of Evidence at a trial held on the date of the  
3 application; and

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

10 (c) ~~[For purposes of]~~ Section 4(a), Article 11.07, Section  
11 5(a), Article 11.071, and Section 9(a), Article 11.072, only apply  
12 to a claim under this article if the claim has been presented  
13 previously in an application filed by an attorney ~~[a claim or issue~~  
14 ~~could not have been presented previously in an original application~~  
15 ~~or in a previously considered application if the claim or issue is~~  
16 ~~based on relevant scientific evidence that was not ascertainable~~  
17 ~~through the exercise of reasonable diligence by the convicted~~  
18 ~~person on or before the date on which the original application or a~~  
19 ~~previously considered application, as applicable, was filed].~~

20 SECTION 4. The changes in law made by the Act apply only to  
21 an application for a writ of habeas corpus filed on or after the  
22 effective date of this Act. An application filed before the  
23 effective date of this Act is governed by the law in effect when the  
24 application was filed, and the former law is continued in effect for  
25 that purpose.

26 SECTION 5. This Act takes effect December 1, 2025.