

SUBJECT: Prohibiting filing fees for a writ of habeas corpus

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Garcia, Green, Keel, Nixon, Smith, Talton
0 nays
1 absent — Wise

WITNESSES: For — Suzanne Donovan and Keith Hampton, Texas Criminal Defense Lawyers Association
Against — None

BACKGROUND: Criminal defendants use habeas corpus appeals to assert that they have been imprisoned improperly or have suffered other illegal restraints of liberty in violation of their constitutional rights. Court filing fees for writs of habeas corpus may vary from jurisdiction to jurisdiction in Texas.

DIGEST: HB 149 would add Article 11.051 to the Code of Criminal Procedure, prohibiting a court clerk from requiring anyone who files an application or petition for a writ of habeas corpus to pay a filing fee.
The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: HB 149 would ensure that criminal defendants could not be denied access to the courts for review of the constitutionality of their incarceration because of a costly fee. Writs of habeas corpus, a fundamental right that goes back to English common law, are filed primarily by indigent inmates.

OPPONENTS SAY: The fees charged for filing writs of habeas corpus usually are negligible, so anyone should be able to afford them. Courts use filing fees to cover the administrative costs of processing legal documents, and writs of habeas corpus should be no different.