

SUBJECT: Court consideration of scientific evidence for some writs of habeas corpus

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson

0 nays

1 absent — Shaheen

WITNESSES: For — Amanda Marzullo, Texas Defender Service; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Kristin Etter, Texas Criminal Defense Lawyers Association; Scott Henson, Texas Criminal Justice Coalition; Sarah Pahl, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation Center for Effective Justice)

Against — None

BACKGROUND: Writs of habeas corpus are a way to challenge the constitutionality of a criminal conviction or the process that resulted in a conviction or sentence. Code of Criminal Procedure, Art. 11.073 allows courts to grant relief on writs of habeas corpus, subject to certain criteria, if relevant scientific evidence that is currently available was not available at the time of trial because the evidence was not ascertainable through the exercise of reasonable diligence.

Under Art. 11.073(d) when courts are making certain required findings about the scientific evidence, they must consider whether the scientific knowledge or method on which the relevant scientific evidence was based had changed since the trial or the date of an application for a writ of habeas corpus.

DIGEST: CSHB 3724 would revise the items that courts reviewing writs of habeas corpus under Code of Criminal Procedure, Art. 11.073 must consider when making a finding on whether relevant scientific evidence was ascertainable. Instead of considering whether scientific knowledge had

changed, courts would consider whether the *field of scientific knowledge* had changed. Court also would have to consider a new item, whether a testifying expert's scientific knowledge had changed.

The bill would take effect September 1, 2015.