

SUBJECT: Allowing writs of habeas corpus based on evidence affecting punishment

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — Mike Ware, Innocence Project of Texas; Elsa Alcala, Texas Defender Service; (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; M. Paige Williams, Dallas County Criminal District Attorney John Creuzot; Nicolas Hughes, Harris County Public Defender's Office; Kathleen Mitchell, Just Liberty; Shea Place, Texas Criminal Defense Lawyers Association; Emily Gerrick, Texas Fair Defense Project; Jennifer Erschabek and Lauren Oertel, Texas Inmate Families Association; Marc Levin, Texas Public Policy Foundation; Susan Lippman)

Against — (*Registered, but did not testify*: Jimmy Zamora; Hector Zamora)

BACKGROUND: Code of Criminal Procedure ch. 11 governs procedures for filing a writ of habeas corpus, which is a way to challenge the constitutionality of a criminal conviction or the process that resulted in a conviction or sentence.

Courts are authorized to grant a convicted person relief for such writs if they meet certain conditions, including if scientific evidence currently is available and was not available at the time of a trial and, had the scientific evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted.

Concerns have been raised that current law does not allow these writs when the evidence would affect only a punishment and not a conviction.

DIGEST: HB 464 would allow relief on writs of habeas corpus if a court found that had the evidence been presented at trial, on preponderance of the evidence the person would have received a different punishment.

The bill would take effect December 1, 2019, and would apply to writs filed on or after that date.