

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1976
By: Whitmire
Criminal Justice
4/2/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Scientific evidence, such as DNA, was not always a factor in determining guilt or innocence. Today, scientific evidence has been the sole determinant of restoring liberty to an innocent person. The writ of habeas corpus is a remedy to be used when any person is restrained of their liberty. The Texas Department of Criminal Justice houses almost 158,000 inmates, and unfortunately some were wrongly convicted.

C.S.S.B. 1976 requires a court to grant a convicted person relief, on a properly filed application for a writ of habeas corpus, containing sufficient specific facts. This legislation prohibits a convicting court from denying relief on an authorized application based solely on the applicant's plea, confession, or admission. C.S.S.B. 1976 authorizes a court to grant relief on the basis of relevant scientific evidence not available at the time of the convicted person's trial.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 11, Code of Criminal Procedure, by adding Article 11.073, as follows:

- (a) Art. 11.073. ADDITIONAL PROCEDURES FOR ALL WRITS. (a) Requires a court to grant a convicted person relief on an application for a writ of habeas corpus if the convicted person files an application, in the manner provided by Article 11.07 (Procedure After Conviction Without Death Penalty), 11.071 (Procedure in Death Penalty Case), or 11.072 (Procedure in Community Supervision Case), containing sufficient specific facts indicating that relevant scientific evidence is available and was not available at the time of the convicted person's trial because the evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of or during the convicted person's trial, or the evidence was not admissible under the Texas Rules of Evidence; the scientific evidence would be admissible under the Texas Rules of Evidence at a trial held on the date of the application; and the court finds that, had the scientific evidence been presented at trial, it is reasonably probable that the person would not have been convicted.
- (b) Authorizes a court, notwithstanding any other provision of this chapter, if the court finds that scientific evidence exists that was not available at the time of a convicted person's trial, to grant relief on the application for a writ of habeas corpus under this chapter regardless of whether the convicted person has previously filed an application under this chapter.
- (c) Authorizes a convicted person, who entered a plea of guilty or nolo contendere or who made a confession or similar admission before or after conviction, notwithstanding any other provision of this chapter, to submit an application for a writ of habeas corpus as provided by this section. Prohibits the convicting court from denying relief on the application authorized by this subsection based solely on the applicant's plea, confession, or admission.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.