

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1684  
By: Ellis  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In Texas, only the Court of Criminal Appeals has the power to grant the relief that is sought in a writ of habeas corpus, including vacating a conviction, ordering a habeas applicant's release from custody, and ruling on other conditions of confinement or supervision imposed as a result of the conviction.

A person who has been wrongly convicted and seeks to have the conviction overturned to be exonerated, must file an application for writ of habeas corpus with the district court, which then recommends to the Court of Criminal Appeals that the relief be granted. This can take months and leads to unnecessary delays in the exoneree being compensated by the state for the wrongful conviction.

S.B. 1684 gives the convicting court the power to vacate the order convicting the habeas applicant if the convicting court finds that the applicant is entitled to relief based on evidence of actual innocence or findings of fact and conclusions of law stipulated to by the applicant and the prosecuting attorney. In such circumstances, it would require the convicting court to order the applicant's immediate release from custody and other conditions of confinement or supervision as a result of the conviction.

The attorney representing the state could appeal the convicting court's order to vacate the conviction. If the prosecuting attorney files a notice of appeal, the judgment of the convicting court is stayed and the Court of Criminal Appeals retains jurisdiction over the writ of habeas corpus and proceeds as it would otherwise.

As proposed, S.B. 1684 amends current law relating to procedures applicable to an applicant entitled to habeas corpus under certain circumstances.

### **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 Section 3, Article 11.07, Code of Criminal Procedure, by adding Subsections (d-1) and (d-2), as follows:

(d-1) Requires the convicting court, if the convicting court finds the applicant is entitled to relief based on evidence of actual innocence, or if the convicting court finds the applicant is entitled to relief based on findings of fact and conclusions of law stipulated to by the applicant and the attorney representing the state, to:

- (1) vacate the order convicting the applicant;
- (2) order the applicant's immediate release from custody; and
- (3) as applicable, order the applicant's release from other conditions of confinement or supervision imposed as a result of the conviction.

(d-2) Authorizes the attorney representing the state, if the convicting court vacates the order convicting the applicant, as described by Subsection (d-1), to file a notice of appeal of the order vacating the conviction order not later than 30 days after the date of the entry of that order. Provides that, on filing of a notice of appeal, the judgment of the convicting court is stayed, and the court of criminal appeals retains jurisdiction over the writ of habeas corpus and may proceed in the same manner as the court otherwise proceeds under this article.

SECTION 2. Provides that the changes in law made by this Act relating to the application of writ of habeas corpus apply regardless of whether the offense for which the applicant is in custody was committed before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2011.