

BILL ANALYSIS

Senate Research Center
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S.B. 1273
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, all applications for writs of habeas corpus, in cases where the defendant is sentenced to prison or death, must be approved or denied by the Texas Court of Criminal Appeals. Texas and Virginia are the only states that have this requirement, and combined with the Court of Criminal Appeals' other duties, it means that Texas's is one of the busiest appellate courts in the country.

The process of having the Court of Criminal Appeals approve every writ application means there is a consistent ruling, but it also means that the process for approving writs is drawn out and the Court of Criminal Appeals is overburdened. S.B. 1273 relieves some of this burden by allowing the most clear-cut cases to be processed at the trial court level. The cases that would be eligible for this process are those in which the state, via the prosecutor, agrees with the trial court that the circumstances warrant post-conviction relief for the defendant. It would also only apply when the defendant was sentenced to prison time but not to death.

This change improves the process three-fold. It would give prosecutors some discretion in cases that they know well; it would reduce the time to process clear-cut writ applications by six to nine months; and it would reduce some burden on the Court of Criminal Appeals.

In sum, S.B. 1273 would allow the trial court to approve an application for a writ of habeas corpus in non-death sentence cases where the state also agrees that such a writ should be granted. Otherwise, the process for applying for a writ of habeas corpus would remain the same, requiring approval from the Texas Court of Criminal Appeals.

As proposed, S.B. 1273 amends current law relating to the procedures for an application for a writ of habeas corpus in certain felony cases where the state agrees to relief.

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 11.075, as follows:

Art. 11.075. PROCEDURES IN CERTAIN FELONY CASES WHERE STATE AGREES TO RELIEF

Sec. 1. Provides that, notwithstanding Article 11.07 (Procedure After Conviction Without Death Penalty), this article establishes the procedures for an application for a writ of habeas corpus in a felony case in which the applicant seeks relief from a judgment of conviction that imposes a sentence of confinement that is not suspended and the state agrees that the applicant is entitled to relief.

Sec. 2. Requires that an application for a writ of habeas corpus under this article be filed with the clerk of the convicting court.

Sec. 3. Prohibits an application from being filed under this article if the applicant could obtain the requested relief by means of an appeal under Article 44.02 (Defendant May Appeal) and Rule 25.2, Texas Rules of Appellate Procedure.

Sec. 4. (a) Provides that, when an application is filed under this article, a writ of habeas corpus issues by operation of law.

(b) Requires the clerk of the court, at the time the application is filed, to assign the case a file number ancillary to that of the judgment of the conviction being challenged.

Sec. 5. (a) Requires the trial court, not later than the 60th day after the date on which the application is filed, to enter a written order granting or denying the relief sought in the application. Authorizes the court to grant the relief requested in the application only to the extent that the relief is agreed to by the state.

(b) Authorizes the court, in making its determination, to order affidavits, depositions, interrogatories, or a hearing, and to rely on the court's personal recollection.

(c) Prohibits a hearing, if a hearing is ordered, from being held before the eighth day after the date on which the applicant and the state are provided notice of the hearing.

(d) Authorizes the court to appoint an attorney or magistrate to hold a hearing ordered under this article and make findings of fact. Provides that an attorney appointed under this subsection is entitled to compensation as provided by Article 26.05 (Compensation of Counsel Appointed to Defend).

Sec. 6. Authorizes the applicant, if the application is denied, to appeal under Article 44.02 and Rule 31, Texas Rules of Appellate Procedure.

Sec. 7. (a) Prohibits a court, if a subsequent application for a writ of habeas corpus is filed after final disposition of an initial application under this article, from considering the merits of or grant relief based on the subsequent application unless the application contains sufficient facts establishing that the current claims and issues have not been and could not have been presented previously in an original application or in a previously considered application filed under this article because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application.

(b) Provides that, for purposes of Subsection (a), a legal basis of a claim is unavailable on or before a date described by that subsection if the legal basis was not recognized by and could not have been reasonably formulated from a final decision of the United States Supreme Court, a court of appeals of the United States, or a court of appellate jurisdiction of this state on or before that date.

(c) Provides that, for purposes of Subsection (a), a factual basis of a claim is unavailable on or before a date described by that subsection if the factual basis was not ascertainable through the exercise of reasonable diligence on or before that date.

SECTION 2. Effective date: upon passage or September 1, 2017.