

BILL ANALYSIS

Senate Research Center
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H.B. 225
By: Thompson, Senfronia et al. (Hinojosa)
Criminal Justice
5/17/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A writ of habeas corpus is a post-conviction process for getting back into court and overturning a wrongful conviction. Current law provides for the reexamination of certain cases based on new scientific evidence and authorizes a court to provide a convicted person relief on an application for a writ of habeas corpus if the court finds that the person would not have been convicted had the new evidence been presented at trial. However, there is no similar law providing for a reexamination of cases based on new non-scientific evidence that was not available to be offered during trial.

H.B. 225 seeks to address this issue by authorizing a court to grant a convicted person relief on an application for a writ of habeas corpus based on new non-scientific evidence under certain conditions.

H.B. 225 amends current law relating to the procedure for an application for a writ of habeas corpus based on certain new evidence.

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 11.0732, as follows:

Art. 11.0732. PROCEDURE RELATED TO CERTAIN NEW EVIDENCE. (a) Provides that this article applies to evidence, other than evidence described by Article 11.073(a) (relating to certain relevant scientific evidence applicable to procedures related to an application for a writ of habeas corpus), that was not available to be offered by a convicted person at the person's trial and that is material to the person's conviction.

(b) Authorizes a court to grant a convicted person relief on an application for a writ of habeas corpus if:

(1) 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 specific facts indicating that:

(A) evidence described by Subsection (a) is currently available and was not available at the time of the person's trial because the evidence was not ascertainable through the exercise of reasonable diligence by the person before the date of or during the person's trial; and

(B) the evidence would be admissible under the Texas Rules of Evidence at a trial held on the date of the application; and

(2) the court makes the findings described by Subdivisions (1)(A) and (B) and also finds that, had the evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted.

(c) Provides that for purposes of Section 4(a)(1), Article 11.07 (relating to authorizing a court to consider the merits of or grant relief if the application for a writ of habeas corpus establishes that current claims and issues were never presented in a previous application), Section 5(a)(1), Article 11.071 (relating to authorizing a court to consider the merits of or grant relief if the application for a writ of habeas corpus establishes that current claims and issues were never presented in a previous application due to the basis of the claims being unavailable), and Section 9(a), Article 11.072 (relating to prohibiting a court from considering the merits of or granting relief based on subsequent application for a writ of habeas corpus unless the application contains certain facts), a claim or issue could not have been presented previously in an original application or in a previously considered application if the claim or issue is based on evidence described by Subsection (a) that was not ascertainable through the exercise of reasonable diligence by the convicted person on or before the date on which the original application or a previously considered application, as applicable, was filed.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.