

BILL ANALYSIS

Senate Research Center
87R3224 AJZ-D

H.B. 275
By: Moody et al. (Hughes)
Criminal Justice
5/17/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

THE ISSUE

Texas's writ law for new science was developed in 2013 and expanded in 2015.

It allows a defendant to file a writ of habeas corpus based on new scientific evidence unavailable at the time of trial—basically, a convicted person can try to show a court newly developed science that would have changed the outcome of the case.

If a court believes by a preponderance of the evidence that new scientific evidence unavailable at trial would have made the difference between conviction and acquittal, the court can void a conviction.

This law is critical in contesting what forensic experts later determine is junk science and gives courts the ability to review cases where bad science may have put an innocent person behind bars.

Because of the way the law was drafted, these writs are only available when new science would have changed a person's conviction, not their punishment, an unintentional oversight the Court of Criminal Appeals noted in *Ex parte White*, 5065 S.W.3d 39 (Tex. Crim. App. 2016).

THE SOLUTION

H.B. 275 simply treats punishment the same as conviction for new science writs.

That means a court can grant relief if it finds beyond a reasonable doubt that new science would have resulted in an acquittal or would have changed the punishment the applicant received.

QUESTIONS & CONCERNS

The bill is not about guilty people going free. Here, we are talking about a new trial on punishment, so the conviction itself is not undone. If a court grants relief, it is to let the new scientific evidence, which it has already found would likely change the outcome of punishment, be heard by a jury to decide on a new sentence.

The bill addresses junk science that has been abused in some courts. People have been sentenced to death on "expert" opinions we now know are junk science. There are also numerous opinions on issues like IQ and mental illness that have evolved over time.

Courts are the gatekeepers for these claims. We already allow these claims in situations in which actual guilt or innocence is in question, and our courts have been conservative enough to allow only the most meritorious claims to move forward. There is no evidence to suggest new science writs on punishment would operate any differently, especially since it is a much smaller class of cases.

H.B. 275 amends current law relating to an application for a writ of habeas corpus based on certain relevant scientific evidence that was not available at the applicant'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 Article 11.073(b), Code of Criminal Procedure, as follows:

(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) relevant scientific evidence is currently 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; and

(B) the scientific 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 scientific evidence been presented at trial, on the preponderance of the evidence the person would not have been convicted or would have received a different punishment, rather than would not have been convicted.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: December 1, 2021.