

BILL ANALYSIS

Senate Research Center

H.B. 1346
By: Alonzo (Rodríguez)
Administration
5/22/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a judge has the discretion to appoint counsel to represent a defendant in a habeas corpus proceeding in a non-capital case. Interested parties contend that there are some limited circumstances where there arguably should be mandatory appointment of counsel to expedite a defendant's release and reduce incarceration expenditures, namely when a district attorney agrees that a defendant should be released because the defendant is actually innocent or guilty of a lesser offense or the law under which the defendant was convicted has been declared void.

H.B. 1346 as engrossed seeks to address this concern by requiring the appointment of counsel for certain indigent defendants.

H.B. 1346 amends current law relating to the representation of certain indigent applicants for a writ of habeas corpus.

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 11.074, as follows:

Art. 11.074. COURT-APPOINTED REPRESENTATION REQUIRED IN CERTAIN CASES. (a) Provides that this article applies only to a felony or misdemeanor case in which the applicant seeks relief on a writ of habeas corpus from a judgment of conviction that:

- (1) imposes a penalty other than death; or
- (2) orders community supervision.

(b) Provides that if at any time the state represents to the convicting court that an eligible indigent defendant under Article 1.051 (Right to Representation by Counsel) who was sentenced or had a sentence suspended is not guilty, is guilty of only a lesser offense, or was convicted or sentenced under a law that has been found unconstitutional by the court of criminal appeals or the United States Supreme Court, the court:

- (1) shall appoint an attorney to represent the indigent defendant for purposes of filing an application for a writ of habeas corpus, if an application has not been filed, or to otherwise represent the indigent defendant in a proceeding based on the application for the writ; and
- (2) may grant the request for habeas corpus relief, if the state and the attorney representing the eligible indigent defendant agree on the requested relief.

(c) Requires an attorney appointed under this article to be compensated as provided by Article 26.05 (Compensation of Counsel Appointed to Defend).

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: upon passage or September 1, 2015.