

WESTLAW

NOTES OF DECISIONS (3)New scientific evidence
Sufficiency of evidence

Vernon's Texas Statutes and Codes Annotated
Code of Criminal Procedure(Refs & Annots)
 Title 1. **Code of Criminal Procedure** of 1965

Art. 11.073. Procedure related to certain scientific evidence

Vernon's Texas Statutes and Codes Annotated Code of Criminal Procedure Effective: September 1, 2015 (Approx. 2 pages)
 CHAPTER ELEVEN. HABEAS CORPUS (REFS & ANNOTS)

Effective: September 1, 2015

Vernon's Ann. Texas C.C.P. **Art. 11.073****Art. 11.073. Procedure** related to certain scientific evidence

Currentness

(a) This article applies to relevant scientific evidence that:

- (1) was not available to be offered by a convicted person at the convicted person's trial; or
- (2) contradicts scientific evidence relied on by the state at trial.

(b) A court may 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, 11.071, or 11.072, 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.

(c) For purposes of Section 4(a)(1), Article 11.07, Section 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, 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 relevant scientific evidence 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.

(d) In making a finding as to whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence on or before a specific date, the court shall consider whether the field of scientific knowledge, a testifying expert's scientific knowledge, or a scientific method on which the relevant scientific evidence is based has changed since:

(1) the applicable trial date or dates, for a determination made with respect to an original application; or

(2) the date on which the original application or a previously considered application, as applicable, was filed, for a determination made with respect to a subsequent application.

Credits

Added by Acts 2013, 83rd Leg., ch. 410 (S.B. 344), § 1, eff. Sept. 1, 2013. Amended by Acts 2015, 84th Leg., ch. 1263 (H.B. 3724), § 1, eff. Sept. 1, 2015.

Editors' Notes

CROSS REFERENCES

Powers and duties, office of capital writs, see V.T.C.A., Government **Code** § 78.054.

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Vernon's Ann. Texas C. C. P. Art. 11.073, TX CRIM PRO Art. 11.073
Current through the end of the 2015 Regular Session of the 84th Legislature

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