

By: Hodge

H.B. No. 43

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain writs of habeas corpus based solely on a claim  
3 of a time-served credit error.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 4(a), Article 11.07, Code of Criminal  
6 Procedure, is amended to read as follows:

7 (a) If a subsequent application for writ of habeas corpus  
8 regarding a conviction, other than an application based solely on a  
9 claim of a time-served credit error, is filed after final  
10 disposition of an initial application challenging the same  
11 conviction, a court may not consider the merits of or grant relief  
12 based on the subsequent application unless the application contains  
13 sufficient specific facts establishing that:

14 (1) the current claims and issues have not been and  
15 could not have been presented previously in an original application  
16 or in a previously considered application filed under this article  
17 because the factual or legal basis for the claim was unavailable on  
18 the date the applicant filed the previous application; or

19 (2) by a preponderance of the evidence, but for a  
20 violation of the United States Constitution no rational juror could  
21 have found the applicant guilty beyond a reasonable doubt.

22 SECTION 2. Section 501.0081(c), Government Code, is amended  
23 to read as follows:

24 (c) Subsection (b) does not apply to an inmate who,

1 according to the department's computations, is within 180 days of  
2 the inmate's presumptive parole date, date of release on mandatory  
3 supervision, or date of discharge. An inmate described by this  
4 subsection may raise a claim of time-served credit error by filing a  
5 complaint under the system described by Subsection (a) or ~~[, if an~~  
6 ~~application for a writ of habeas corpus is not otherwise barred,~~ by  
7 raising the claim in an [that] application for a writ of habeas  
8 corpus.

9 SECTION 3. (a) The change in law made by this Act to Section  
10 4(a), Article 11.07, Code of Criminal Procedure, applies only to an  
11 application for a writ of habeas corpus filed on or after the  
12 effective date of this Act. An application for a writ of habeas  
13 corpus filed before the effective date of this Act is governed by  
14 the law in effect before the effective date of this Act, and the  
15 former law is continued in effect for this purpose.

16 (b) The change in law made by this Act to Section  
17 501.0081(c), Government Code, applies only to a claim made on or  
18 after the effective date of this Act that alleges a time-served  
19 credit error, as described by Section 501.0081, Government Code, as  
20 amended by this Act. A claim made before the effective date of this  
21 Act that alleges a time-served credit error is covered by the law in  
22 effect when the claim is made, and the former law is continued in  
23 effect for this purpose.

24 SECTION 4. This Act takes effect November 1, 2003.