

1-1 By: Hodge (Senate Sponsor - Deuell) H.B. No. 32
1-2 (In the Senate - Received from the House April 7, 2003;
1-3 April 9, 2003, read first time and referred to Committee on
1-4 Criminal Justice; May 21, 2003, reported favorably by the
1-5 following vote: Yeas 6, Nays 0; May 21, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to certain writs of habeas corpus based solely on a claim
1-9 of a time-served credit error.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 4(a), Article 11.07, Code of Criminal
1-12 Procedure, is amended to read as follows:

1-13 (a) If a subsequent application for writ of habeas corpus
1-14 regarding a conviction, other than an application based solely on a
1-15 claim of a time-served credit error, is filed after final
1-16 disposition of an initial application challenging the same
1-17 conviction, a court may not consider the merits of or grant relief
1-18 based on the subsequent application unless the application contains
1-19 sufficient specific facts establishing that:

1-20 (1) the current claims and issues have not been and
1-21 could not have been presented previously in an original application
1-22 or in a previously considered application filed under this article
1-23 because the factual or legal basis for the claim was unavailable on
1-24 the date the applicant filed the previous application; or

1-25 (2) by a preponderance of the evidence, but for a
1-26 violation of the United States Constitution no rational juror could
1-27 have found the applicant guilty beyond a reasonable doubt.

1-28 SECTION 2. Section 501.0081(c), Government Code, is amended
1-29 to read as follows:

1-30 (c) Subsection (b) does not apply to an inmate who,
1-31 according to the department's computations, is within 180 days of
1-32 the inmate's presumptive parole date, date of release on mandatory
1-33 supervision, or date of discharge. An inmate described by this
1-34 subsection may raise a claim of time-served credit error by filing a
1-35 complaint under the system described by Subsection (a) or ~~[, if an~~
1-36 ~~application for a writ of habeas corpus is not otherwise barred,~~ by
1-37 raising the claim in an [that] application for a writ of habeas
1-38 corpus.

1-39 SECTION 3. (a) The change in law made by this Act to Section
1-40 4(a), Article 11.07, Code of Criminal Procedure, applies only to an
1-41 application for a writ of habeas corpus filed on or after the
1-42 effective date of this Act. An application for a writ of habeas
1-43 corpus filed before the effective date of this Act is governed by
1-44 the law in effect before the effective date of this Act, and the
1-45 former law is continued in effect for this purpose.

1-46 (b) The change in law made by this Act to Section
1-47 501.0081(c), Government Code, applies only to a claim made on or
1-48 after the effective date of this Act that alleges a time-served
1-49 credit error, as described by Section 501.0081, Government Code, as
1-50 amended by this Act. A claim made before the effective date of this
1-51 Act that alleges a time-served credit error is covered by the law in
1-52 effect when the claim is made, and the former law is continued in
1-53 effect for this purpose.

1-54 SECTION 4. This Act takes effect immediately if it receives
1-55 a vote of two-thirds of all the members elected to each house, as
1-56 provided by Section 39, Article III, Texas Constitution. If this
1-57 Act does not receive the vote necessary for immediate effect, this
1-58 Act takes effect September 1, 2003.

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