

By: Vaught, Pierson

H.B. No. 2371

A BILL TO BE ENTITLED

AN ACT

relating to the forfeiture of an inmate's good conduct time as a result of filing certain motions for forensic DNA testing.

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

SECTION 1. Chapter 498, Government Code, is amended by adding Section 498.0047 to read as follows:

Sec. 498.0047. FORFEITURE OF GOOD CONDUCT TIME: FRIVOLOUS POSTCONVICTION DNA MOTIONS. (a) On receipt of a certified copy of a finding described by Article 64.04(b), Code of Criminal Procedure, regarding forensic DNA testing conducted on behalf of an inmate while the inmate was in the custody of the department or was confined in county jail awaiting transfer to the department following the conviction of a felony or the revocation of community supervision, parole, or mandatory supervision, the department shall forfeit:

(1) 180 days of the inmate's accrued good conduct time, if the inmate is serving a sentence for a felony of the third degree;

(2) 365 days of the inmate's accrued good conduct time, if the inmate is serving a sentence for a felony of the second degree; or

(3) all of the inmate's accrued good conduct time, if the inmate is serving a sentence for a first degree or capital felony.

1 (b) The department may not restore good conduct time
2 forfeited under this section.

3 SECTION 2. Article 64.01(a), Code of Criminal Procedure, is
4 amended to read as follows:

5 (a) A convicted person may submit to the convicting court a
6 motion for forensic DNA testing of evidence containing biological
7 material. The motion must be accompanied by an affidavit, sworn to
8 by the convicted person, containing statements of fact in support
9 of the motion, including a statement that the requested DNA
10 testing, if conducted, will not further inculcate the convicted
11 person in relation to the offense that is the basis of the
12 challenged conviction.

13 SECTION 3. Article 64.04, Code of Criminal Procedure, is
14 amended to read as follows:

15 Art. 64.04. FINDING. (a) After examining the results of
16 testing under Article 64.03, the convicting court shall hold a
17 hearing and make a finding as to whether, had the results been
18 available during the trial of the offense, it is reasonably
19 probable that the person would not have been convicted.

20 (b) If the court finds that, had the results been available
21 during the trial of the offense, it is reasonably probable that the
22 person would still have been convicted, the court shall forward a
23 certified copy of that finding to:

- 24 (1) the Texas Department of Criminal Justice; and
25 (2) the victim of the offense that is the basis of the
26 challenged conviction, at the last known address of the victim.

27 SECTION 4. Section 498.0047, Government Code, as added by

1 this Act, applies only to a forfeiture of good conduct time based on
2 the filing of a motion for forensic DNA testing under Chapter 64,
3 Code of Criminal Procedure, on or after September 1, 2009.

4 SECTION 5. Articles 64.01(a) and 64.04, Code of Criminal
5 Procedure, as amended by this Act, apply only to a motion for
6 forensic DNA testing filed under Chapter 64, Code of Criminal
7 Procedure, on or after September 1, 2009, or to a finding related to
8 that motion.

9 SECTION 6. This Act takes effect September 1, 2009.