

By: Jones of Harris

H.B. No. 5075

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the timeline to submit a motion for a new trial to the
3 Court of Criminal Appeals.

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

5 SECTION 1. Art.45., Code of Criminal Procedure, is amended
6 to be read as follows:

7 REVIEW BY COURT OF CRIMINAL APPEALS. (a) The Court of
8 Criminal Appeals may review decisions of the court of appeals on its
9 own motion. An order for review must be filed before the decision
10 of the court of appeals becomes final as determined by Article
11 42.045.

12 (b) The Court of Criminal Appeals may review decisions of
13 the court of appeals upon a petition for review.

14 (1) The state or a defendant in a case may petition the
15 Court of Criminal Appeals for review of the decision of a court of
16 appeals in that case.

17 (2) The petition shall be filed with the clerk of the
18 court of appeals which rendered the decision within 30 days after
19 the final ruling of the court of appeals.

20 (3) A petition filed with the clerk of the court of
21 appeals which rendered the decision after the 30 days after the
22 final ruling of the court of appeals shall be considered if:

23 (a) there is evidence satisfactory to the court
24 showing that the petitioner's failure to file the petition within

1 30 days was due to an error made by a third party or other
2 circumstances outside the respondent's control.

3 ~~(3)~~(4) The petition for review shall be addressed to
4 "The Court of Criminal Appeals of Texas," and shall state the name
5 of the petitioning party and shall include a statement of the case
6 and authorities and arguments in support of each ground for review.

7 ~~(4)~~(5) Upon filing a petition for review, the
8 petitioning party shall cause a true copy to be delivered to the
9 attorney representing the opposing party. The opposing party may
10 file a reply to the petition with the Court of Criminal Appeals
11 within 30 days after receipt of the petition from the petitioning
12 party.

13 ~~(5)~~(6) Within 15 days after the filing of a petition
14 for review, the clerk of the court of appeals shall note the filing
15 on the record and forward the petition together with the original
16 record and the opinion of the court of appeals to the Court of
17 Criminal Appeals.

18 ~~(6)~~(7) The Court of Criminal Appeals shall either
19 grant the petition and review the case or refuse the petition.

20 ~~(7)~~(8) Subsequent to granting the petition for review,
21 the Court of Criminal Appeals may reconsider, set aside the order
22 granting the petition, and refuse the petition as though the
23 petition had never been granted.

24 (c) The Court of Criminal Appeals may promulgate rules
25 pursuant to this article.

26 (d) Extensions of time for meeting the limits prescribed in
27 Subdivisions (2) and (4) of Subsection (b) of this article may be

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1 granted by the Court of Criminal Appeals or a judge thereof for good
2 cause shown on timely application to the Court of Criminal Appeals.