

BILL ANALYSIS

H.B. 32
By: Hodge
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, if an offender files a subsequent application for a writ of habeas corpus challenging the same conviction as the original application, a court may not consider the merits of that subsequent application unless the current claims could not have been previously presented.

In *ex parte Whiteside*, the Court of Criminal Appeals of Texas found that a subsequent application alleging miscalculation of time credits is barred. However, miscalculation of time credits could occur at any point of time during a period of incarceration, and could not be foreseeable at the time of an original application for a writ of habeas corpus.

House Bill 32 remedies the problem by allowing a subsequent application for a writ of habeas corpus only for claims of a time-served error.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 32 amends Section 4(a), Article 11.07, Code of Criminal Procedure, to exempt writ of habeas corpus applications based solely on a claim of a time-served credit error from the prohibition on filing subsequent applications.

The bill also amends Section 501.0081(c), Government Code, to strike language that refers to a prohibition on raising a claim for a time-served error in an application for a writ of habeas corpus.

The bill provides that the change in law made to Section 4(a), Article 11.07, Code of Criminal Procedure, and Section 501.0081(c), Government Code, applies only to an application for a writ of habeas corpus filed on or after the effective date of this Act.

EFFECTIVE DATE

Upon passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.