By: Hodge   H.B. No. 32

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 immediately if it receives

25 a vote of two-thirds of all the members elected to each house, as

26 provided by Section 39, Article III, Texas Constitution. If this

27 Act does not receive the vote necessary for immediate effect, this

1   Act takes effect September 1, 2003.