

## BILL ANALYSIS

H.B. 681  
By: Gattis  
Corrections  
Committee Report (Unamended)

### BACKGROUND AND PURPOSE

Each year, Texas courts receive thousands of frivolous lawsuits filed by inmates of the Texas Department of Criminal Justice. Those frivolous lawsuits slow the administration of justice and prevent meritorious lawsuits from proceeding to trial in a timely manner.

In response to this problem, the Legislature granted TDCJ authority, through § 498.0045 of the Government Code, to forfeit an inmates good conduct credit following a court entering a final order finding the lawsuit was frivolous or malicious. In connection with that authority, the Legislature provided a definition of "lawsuit."

Until recently, criminal courts have been working from the assumption that the definition includes frivolous writs of habeas corpus filed by criminal defendants. Indeed, the Texas Court of Criminal Appeals (CCA) said as much in a 2003 opinion. See *Jones v. State*, 97 S.W.3d 586, 589 (Tex. Crim. App. 2003). However, in 2004, the CCA held that further examination of the definition showed it was ambiguous as to whether the Legislature intended for the word "lawsuit" to include writs of habeas corpus. The CCA concluded that writs of habeas corpus could not be included in that definition absent an express statement from the Legislature. See *Ex parte Rieck*, 144 S.W.3d 510 (Tex. Crim. App. 2004). The CCA, however, did note that extension of the definition to include writs of habeas corpus would be useful.

In 2003, the CCA received nearly 7,000 writs of habeas corpus from criminal defendants and very few of those applications contained meritorious claims. The sheer volume of frivolous claims makes it difficult for courts to identify meritorious claims.

HB 681 would make it clear that the Legislature intends to include writs of habeas corpus in the definition of frivolous "lawsuits" that can result in the forfeiture of an inmates good conduct credit. As with other forfeitures, a judge must first dismiss the writ with an express finding that the application was frivolous or malicious. The intention of this amendment to the code, is to limit the number of frivolous lawsuits filed with the CCA.

### 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

SECTION 1: Amends Section 498.0045 (a), Government Code, to read as follows:

(a) In this section, "final order" means a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit, including a proceeding arising from an application for writ of habeas corpus, brought by an inmate while the inmate was in custody of the department or confined in county jail awaiting transfer to the department following conviction of a felony or revocation of community supervision, parole, or mandatory supervision.

SECTION 2: This Act applies only to a forfeiture of good conduct time based on the filing in court of an application for writ of habeas corpus on or after the effective date of this Act.

SECTION 3: Effective date, September 1, 2005

### EFFECTIVE DATE

September 1, 2005

H.B. 681 79(R)

