

BILL ANALYSIS

Senate Research Center
78R418 KEL-F

H.B. 32
By: Hodge (Deuell)
Criminal Justice
5/10/2003
Engrossed

DIGEST 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 Texas Court of Criminal Appeals 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. H.B. 32 allows for a subsequent application for a writ of habeas corpus only for claims of a time-served error.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4(a), Article 11.07, Code of Criminal Procedure, to prohibit a court from considering the merits of or grant relief based on the subsequent application unless the application contains sufficient specific facts, if a subsequent application for writ of habeas corpus regarding a conviction, other than an application based solely on a claim of a time-served credit error, is filed after final disposition of an initial application challenging the same conviction.

SECTION 2. Amends Section 501.0081(c), Government Code, to delete existing text regarding an application for a writ of habeas corpus being not otherwise barred. Makes conforming changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2003.