

## **BILL ANALYSIS**

Senate Research Center  
79R1066 MFC-D

S.B. 695  
By: Ogden  
Criminal Justice  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Under Section 498.0045(a), Government Code, inmates who file lawsuits that are found to be frivolous are subject to a loss of good time credit. The evident purpose of the statute is to reduce the cost and improve judicial economy lost due to frivolous litigation. However, according to a recent Court of Criminal Appeals decision, the use of the generic term "lawsuit" has caused this purpose to go partially unfulfilled because it has been interpreted not to include post-conviction writs of habeas corpus filed by inmates. This is due to the fact that a lawsuit, or suit, as defined in *Black's Law Dictionary*, involves more than one party and is a civil proceeding. A writ, by contrast, is conducted ex parte and, since Texas Rules of Civil Procedure do not apply to habeas proceedings, is categorized as criminal. Because the current law lacks specificity, the court found that the Texas Department of Criminal Justice (TDCJ) cannot reduce the good conduct time of an inmate for a frivolous post-conviction writ. However, the court noted that "the evident purpose of the forfeiture statute - to reduce frivolous litigation - would be served by the statute's application to habeas proceedings."

S.B. 695 specifies that the term "lawsuit" as it is used in Section 498.0045(a), Government Code, includes post-conviction writs to ensure that inmates who file writs that are dismissed by the courts as frivolous or malicious will be subject to loss of good time for doing so. Each year the Court of Criminal Appeals is inundated with thousands of post-conviction writs and much time and money is wasted as the court searches for legitimate claims. S.B. 695 will help solve this problem by creating a disincentive for inmates who abuse the writ system.

### **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 498.0045(a), Government Code, to redefine "final order."

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.