

Public Law 89-710

AN ACT

November 2, 1966.
[H. R. 3993]

To authorize the issuance of certificates of citizenship in the Canal Zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 (a) (38) of the Immigration and Nationality Act (66 Stat. 171; 8 U.S.C. 1101 (a) (38)), is amended by adding thereto the following sentence: "For the purpose of issuing certificates of citizenship to persons who are citizens of the United States, the term 'United States' as used in section 341 of this Act includes the Canal Zone."

66 Stat. 263.
8 USC 1452.

Approved November 2, 1966.

Public Law 89-711

AN ACT

November 2, 1966
[H. R. 5958]

Relating to applications for writs of habeas corpus by persons in custody pursuant to judgments of State courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2244 of title 28, United States Code, is amended (a) by inserting at the beginning of the text thereof the subsection designation "(a)", (b) by striking out of such section the words ", or of any State," and (c) by inserting in such section at the end thereof two additional subsections to read as follows:

Habeas corpus.
State custody.
62 Stat. 965.

"(b) When after an evidentiary hearing on the merits of a material factual issue, or after a hearing on the merits of an issue of law, a person in custody pursuant to the judgment of a State court has been denied by a court of the United States or a justice or judge of the United States release from custody or other remedy on an application for a writ of habeas corpus, a subsequent application for a writ of habeas corpus in behalf of such person need not be entertained by a court of the United States or a justice or judge of the United States unless the application alleges and is predicated on a factual or other ground not adjudicated on the hearing of the earlier application for the writ, and unless the court, justice, or judge is satisfied that the applicant has not on the earlier application deliberately withheld the newly asserted ground or otherwise abused the writ.

"(c) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United States on an appeal or review by a writ of certiorari at the instance of the prisoner of the decision of such State court, shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court therein, unless the applicant for the writ of habeas corpus shall plead and the court shall find the existence of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find

that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.”

SEC. 2. Section 2254 of title 28, United States Code is amended—

62 Stat. 967.

(a) by amending the catchline of the section to read as follows:

“§ 2254. State custody; remedies in Federal courts.”

(b) by inserting in such section, immediately after the catchline thereof, the following new subsection:

“(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.”; and

(c) by inserting at the beginning of the two paragraphs thereof existing on the day preceding the date of enactment of this Act the subsection designations “(b)” and “(c)”, respectively; and

(d) by inserting immediately after such paragraphs the following new subsections “(d)”, “(e)”, and “(f)”;

“(d) In any proceeding instituted in a Federal court by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination after a hearing on the merits of a factual issue, made by a State court of competent jurisdiction in a proceeding to which the applicant for the writ and the State or an officer or agent thereof were parties, evidenced by a written finding, written opinion, or other reliable and adequate written indicia, shall be presumed to be correct, unless the applicant shall establish or it shall otherwise appear, or the respondent shall admit—

“(1) that the merits of the factual dispute were not resolved in the State court hearing;

“(2) that the factfinding procedure employed by the State court was not adequate to afford a full and fair hearing;

“(3) that the material facts were not adequately developed at the State court hearing;

“(4) that the State court lacked jurisdiction of the subject matter or over the person of the applicant in the State court proceeding;

“(5) that the applicant was an indigent and the State court, in deprivation of his constitutional right, failed to appoint counsel to represent him in the State court proceeding;

“(6) that the applicant did not receive a full, fair, and adequate hearing in the State court proceeding; or

“(7) that the applicant was otherwise denied due process of law in the State court proceeding;

“(8) or unless that part of the record of the State court proceeding in which the determination of such factual issue was made, pertinent to a determination of the sufficiency of the evidence to support such factual determination, is produced as provided for hereinafter, and the Federal court on a consideration of such part of the record as a whole concludes that such factual determination is not fairly supported by the record:

And in an evidentiary hearing in the proceeding in the Federal court, when due proof of such factual determination has been made, unless

the existence of one or more of the circumstances respectively set forth in paragraphs numbered (1) to (7), inclusive, is shown by the applicant, otherwise appears, or is admitted by the respondent, or unless the court concludes pursuant to the provisions of paragraph numbered (8) that the record in the State court proceeding, considered as a whole, does not fairly support such factual determination, the burden shall rest upon the applicant to establish by convincing evidence that the factual determination by the State court was erroneous.

“(e) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court’s determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court’s factual determination.

“(f) A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.”

SEC. 3. Item 2254 in the analysis of chapter 153 of title 28, United States Code, immediately preceding section 2241 thereof, is amended to read as follows:

“Sec. 2254. State custody: remedies in Federal courts.”

Approved November 2, 1966.

Public Law 89-712

AN ACT

To grant increased benefits to persons receiving cash relief under the Panama Canal Cash Relief Act of July 8, 1937.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 181 (b) of title 2, Canal Zone Code, approved October 18, 1962 (76A Stat. 20), is amended to read as follows:

“(b) An additional amount of \$20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.”

SEC. 2. This Act shall take effect on the first day of the month following that in which it is enacted.

Approved November 2, 1966.

November 2, 1966
[H. R. 5990]

Panama Canal.
Benefits to certain former employees.