Unofficial Copy E2 1999 Regular Session 9lr1231

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By: Senators Baker and Bromwell

Introduced and read first time: January 29, 1999

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 Criminal Procedure - Postconviction Procedure - Filing of Petition for Relief

4 FOR the purpose of altering the period of time in which a person may file a petition

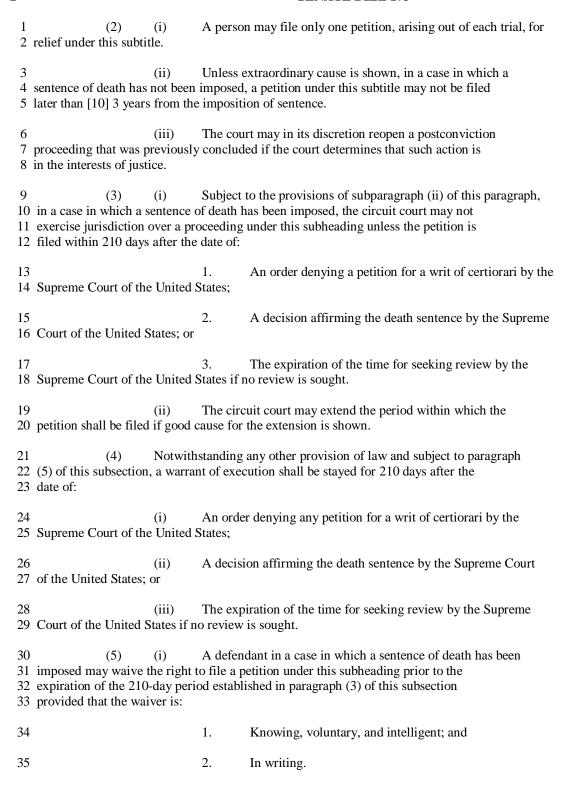
- for postconviction relief in certain cases, unless certain cause is shown;
- 6 providing for the construction and application of this Act; and generally relating
- 7 to the time period for filing a petition for postconviction relief.
- 8 BY repealing and reenacting, with amendments,
- 9 Article 27 Crimes and Punishments
- 10 Section 645A(a)
- 11 Annotated Code of Maryland
- 12 (1996 Replacement Volume and 1998 Supplement)
- 13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 14 MARYLAND, That the Laws of Maryland read as follows:

15 Article 27 - Crimes and Punishments

16 645A.

- 17 (a) Subject to the provisions of paragraphs (2) and (3) of this subsection,
- 18 any person convicted of a crime and either incarcerated under sentence of death or
- 19 imprisonment or on parole or probation, including any person confined or on parole or
- 20 probation as a result of a proceeding before the District Court who claims that the
- 21 sentence or judgment was imposed in violation of the Constitution of the United
- 22 States or the Constitution or laws of this State, or that the court was without
- 23 jurisdiction to impose the sentence, or that the sentence exceeds the maximum
- 24 authorized by law, or that the sentence is otherwise subject to collateral attack upon
- 25 any ground of alleged error which would otherwise be available under a writ of
- 26 habeas corpus, writ of coram nobis, or other common-law or statutory remedy, may
- 27 institute a proceeding under this subtitle in the circuit court for the county to set
- 28 aside or correct the sentence, provided the alleged error has not been previously and
- 29 finally litigated or waived in the proceedings resulting in the conviction, or in any
- 30 other proceeding that the petitioner has taken to secure relief from his conviction.

## **SENATE BILL 173**



23 SECTION 3.24 October 1, 1999.

## **SENATE BILL 173**

| 1 2      | (ii)<br>revoked no later than 15 days l   | A waiver under subparagraph (i) of this paragraph may be before the scheduled date of execution by:   |  |
|----------|---|---|--|
| 3        | subheading; or  | 1. Filing a petition for postconviction relief under this   |  |
| 5        |   | 2. Withdrawing the waiver in writing.   |  |
| 8        |   | A waiver of the right to file a petition under this subheading 10-day period established in paragraph (3) of this state postconviction review process for the purposes of |  |
|          | (iv) paragraph shall continue the S § 75 of this article.   | The revocation of a waiver under subparagraph (ii)1 of this tate postconviction review process for the purposes of  |  |
| 15<br>16 | The revocation of a waiver under subparagraph (ii)2 of this paragraph shall continue the State postconviction review process for the purposes of \$ 75 of this article until the filing of a petition for postconviction relief or the expiration of the 210-day period established in paragraph (3) of this subsection, whichever occurs first.                      |   |  |
| 20<br>21 | SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to postconviction proceedings for sentences imposed on or after the effective date of this Act and may not be applied or interpreted to have any effect on or application to postconviction petitions for sentences imposed before the effective date of this Act. |   |  |

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect