
By: **Senators Baker and Bromwell**
Introduced and read first time: January 29, 1999
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
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CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of altering the period of time in which a person may file a petition
5 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) (1) 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

1 authorized by law, or that the sentence is otherwise subject to collateral attack upon
2 any ground of alleged error which would otherwise be available under a writ of
3 habeas corpus, writ of coram nobis, or other common-law or statutory remedy, may
4 institute a proceeding under this subtitle in the circuit court for the county to set
5 aside or correct the sentence, provided the alleged error has not been previously and
6 finally litigated or waived in the proceedings resulting in the conviction, or in any
7 other proceeding that the petitioner has taken to secure relief from his conviction.

8 (2) (i) A person may file only one petition, arising out of each trial, for
9 relief under this subtitle.

10 (ii) Unless extraordinary cause is shown, in a case in which a
11 sentence of death has not been imposed, a petition under this subtitle may not be filed
12 later than [10] ~~3~~ 5 years from the imposition of sentence.

13 (iii) The court may in its discretion reopen a postconviction
14 proceeding that was previously concluded if the court determines that such action is
15 in the interests of justice.

16 (3) (i) Subject to the provisions of subparagraph (ii) of this paragraph,
17 in a case in which a sentence of death has been imposed, the circuit court may not
18 exercise jurisdiction over a proceeding under this subheading unless the petition is
19 filed within 210 days after the date of:

20 1. An order denying a petition for a writ of certiorari by the
21 Supreme Court of the United States;

22 2. A decision affirming the death sentence by the Supreme
23 Court of the United States; or

24 3. The expiration of the time for seeking review by the
25 Supreme Court of the United States if no review is sought.

26 (ii) The circuit court may extend the period within which the
27 petition shall be filed if good cause for the extension is shown.

28 (4) Notwithstanding any other provision of law and subject to paragraph
29 (5) of this subsection, a warrant of execution shall be stayed for 210 days after the
30 date of:

31 (i) An order denying any petition for a writ of certiorari by the
32 Supreme Court of the United States;

33 (ii) A decision affirming the death sentence by the Supreme Court
34 of the United States; or

35 (iii) The expiration of the time for seeking review by the Supreme
36 Court of the United States if no review is sought.

1 (5) (i) A defendant in a case in which a sentence of death has been
2 imposed may waive the right to file a petition under this subheading prior to the
3 expiration of the 210-day period established in paragraph (3) of this subsection
4 provided that the waiver is:

- 5 1. Knowing, voluntary, and intelligent; and
- 6 2. In writing.

7 (ii) A waiver under subparagraph (i) of this paragraph may be
8 revoked no later than 15 days before the scheduled date of execution by:

- 9 1. Filing a petition for postconviction relief under this
10 subheading; or
- 11 2. Withdrawing the waiver in writing.

12 (iii) A waiver of the right to file a petition under this subheading
13 prior to the expiration of the 210-day period established in paragraph (3) of this
14 subsection shall conclude the State postconviction review process for the purposes of
15 § 75 of this article.

16 (iv) The revocation of a waiver under subparagraph (ii)1 of this
17 paragraph shall continue the State postconviction review process for the purposes of
18 § 75 of this article.

19 (v) The revocation of a waiver under subparagraph (ii)2 of this
20 paragraph shall continue the State postconviction review process for the purposes of
21 § 75 of this article until the filing of a petition for postconviction relief or the
22 expiration of the 210-day period established in paragraph (3) of this subsection,
23 whichever occurs first.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
25 construed prospectively to apply only to postconviction proceedings for sentences
26 imposed on or after the effective date of this Act and may not be applied or interpreted
27 to have any effect on or application to postconviction petitions for sentences imposed
28 before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1999.

