

HOUSE BILL 366

E2

9lr1470
CF 9lr2138

By: **Delegates Rosenberg, Anderson, Braveboy, Carter, Dumais, Pena-Melnyk, Ramirez, V. Turner, Valderrama, and Waldstreicher**

Introduced and read first time: February 2, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Petition for Writ of Actual Innocence – Newly**
3 **Discovered Evidence**

4 FOR the purpose of authorizing a convicted person to file a petition for writ of actual
5 innocence in a certain court if the person claims that there is newly discovered
6 evidence that meets certain requirements; establishing requirements for a
7 petition filed under this Act; requiring the court to hold a hearing on the
8 petition under certain circumstances, with a certain exception; authorizing the
9 court to take certain actions in ruling on the petition; requiring the court to
10 state on the record the reasons for its ruling on the petition; establishing that a
11 petitioner in a proceeding under this Act has the burden of proof; and generally
12 relating to newly discovered evidence and petitions for writs of actual innocence.

13 BY adding to

14 Article – Criminal Procedure

15 Section 8–301 to be under the new subtitle “Subtitle 3. Newly Discovered
16 Evidence”

17 Annotated Code of Maryland

18 (2008 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Criminal Procedure**

22 **SUBTITLE 3. NEWLY DISCOVERED EVIDENCE.**

23 **8–301.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) A CONVICTED PERSON, AT ANY TIME, MAY FILE A PETITION FOR
2 WRIT OF ACTUAL INNOCENCE IN THE CIRCUIT COURT FOR THE COUNTY IN
3 WHICH THE CONVICTION WAS IMPOSED IF THE PERSON CLAIMS THAT THERE IS
4 NEWLY DISCOVERED EVIDENCE THAT:

5 (1) CREATES A SUBSTANTIAL OR SIGNIFICANT POSSIBILITY THAT
6 THE RESULT MAY HAVE BEEN DIFFERENT, AS THAT STANDARD HAS BEEN
7 JUDICIALLY DETERMINED; AND

8 (2) COULD NOT HAVE BEEN DISCOVERED IN TIME TO MOVE FOR A
9 NEW TRIAL UNDER MARYLAND RULE 4-331.

10 (B) A PETITION FILED UNDER THIS SECTION SHALL:

11 (1) BE IN WRITING;

12 (2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS
13 BASED;

14 (3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE; AND

15 (4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR HEARING
16 IF A HEARING IS SOUGHT.

17 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
18 SUBSECTION, THE COURT SHALL HOLD A HEARING ON A PETITION FILED UNDER
19 THIS SECTION IF THE PETITION SATISFIES THE REQUIREMENTS OF SUBSECTION
20 (B) OF THIS SECTION AND A HEARING WAS REQUESTED.

21 (2) THE COURT MAY DISMISS A PETITION WITHOUT A HEARING IF
22 THE COURT FINDS THAT THE PETITION FAILS TO STATE A CLAIM OR ASSERT
23 GROUNDS ON WHICH RELIEF MAY BE GRANTED.

24 (D) (1) IN RULING ON A PETITION FILED UNDER THIS SECTION, THE
25 COURT MAY SET ASIDE THE VERDICT, RESENTENCE, GRANT A NEW TRIAL, OR
26 CORRECT THE SENTENCE, AS THE COURT CONSIDERS APPROPRIATE.

27 (2) THE COURT SHALL STATE THE REASONS FOR ITS RULING ON
28 THE RECORD.

29 (E) A PETITIONER IN A PROCEEDING UNDER THIS SECTION HAS THE
30 BURDEN OF PROOF.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.