HOUSE BILL 366

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

Committee Report: Favorable with amendments House action: Adopted Read second time: March 24, 2009

CHAPTER _____

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 innocence in a certain court if the person claims that there is newly discovered 5 6 evidence that meets certain requirements; establishing requirements for a petition filed under this Act; requiring the court to hold a hearing on the 7 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 state on the record the reasons for its ruling on the petition; establishing that a 10 petitioner in a proceeding under this Act has the burden of proof; and generally 11 relating to newly discovered evidence and petitions for writs of actual innocence. 12

- 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)

21

Article – Criminal Procedure

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law. Underlining indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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1	SUBTITLE 3. NEWLY DISCOVERED EVIDENCE.
2	8–301.
3	(A) A CONVICTED PERSON, AT ANY TIME, MAY FILE A PETITION FOR
4	WRIT OF ACTUAL INNOCENCE IN THE CIRCUIT COURT FOR THE COUNTY IN
5	WHICH THE CONVICTION WAS IMPOSED IF THE PERSON CLAIMS THAT THERE IS
6	NEWLY DISCOVERED EVIDENCE THAT:
7	(1) CREATES A SUBSTANTIAL OR SIGNIFICANT POSSIBILITY THAT
8	THE RESULT MAY HAVE BEEN DIFFERENT, AS THAT STANDARD HAS BEEN
9	JUDICIALLY DETERMINED; AND
10	(2) COULD NOT HAVE BEEN DISCOVERED IN TIME TO MOVE FOR A
11	NEW TRIAL UNDER MARYLAND RULE 4–331.
12	(B) A PETITION FILED UNDER THIS SECTION SHALL:
13	(1) BE IN WRITING;
10	(1) BE IN WRITING;
14	(2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS
15	BASED;
16	(3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE; AND
	(c)
17	(4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR HEARING
18	IF A HEARING IS SOUGHT <u>; AND</u>
19	(5) DISTINGUISH THE NEWLY DISCOVERED EVIDENCE CLAIMED IN
20	THE PETITION FROM ANY CLAIMS MADE IN PRIOR PETITIONS.
21	(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22	SUBSECTION, THE COURT SHALL HOLD A HEARING ON A PETITION FILED UNDER
23	THIS SECTION IF THE PETITION SATISFIES THE REQUIREMENTS OF SUBSECTION
24	(B) OF THIS SECTION AND A HEARING WAS REQUESTED.
25	(2) THE COURT MAY DISMISS A PETITION WITHOUT A HEARING IF
26	THE COURT FINDS THAT THE PETITION FAILS TO STATE A CLAIM OR ASSERT
27	GROUNDS ON WHICH RELIEF MAY BE GRANTED.
28	(D) (1) IN RULING ON A PETITION FILED UNDER THIS SECTION, THE
28 29	(D) (1) IN RULING ON A PETITION FILED UNDER THIS SECTION, THE COURT MAY SET ASIDE THE VERDICT, RESENTENCE, GRANT A NEW TRIAL, OR
$\frac{29}{30}$	CORRECT THE SENTENCE, AS THE COURT CONSIDERS APPROPRIATE.

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1(2)THE COURT SHALL STATE THE REASONS FOR ITS RULING ON2THE RECORD.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.