

SENATE BILL 486

E2

(9lr2006)

ENROLLED BILL

—Judicial Proceedings/Judiciary—

Introduced by **Senators Kelley, Forehand, Gladden, ~~and Raskin~~ Raskin, Brochin, and Frosh**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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
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.

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.

Italics indicate opposite chamber committee amendments.

Bold italics indicate conference committee amendments.



1 BY adding to
2 Article – Criminal Procedure
3 Section 8–301 to be under the new subtitle “Subtitle 3. Newly Discovered
4 Evidence”
5 Annotated Code of Maryland
6 (2008 Replacement Volume)

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

9 **Article – Criminal Procedure**

10 **SUBTITLE 3. NEWLY DISCOVERED EVIDENCE.**

11 **8–301.**

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

16 (1) CREATES A SUBSTANTIAL OR ~~SUBSTANTIAL OR~~ SIGNIFICANT
17 POSSIBILITY THAT THE RESULT MAY HAVE BEEN DIFFERENT, AS THAT
18 STANDARD HAS BEEN JUDICIALLY DETERMINED; AND

19 (2) COULD NOT HAVE BEEN DISCOVERED IN TIME TO MOVE FOR A
20 NEW TRIAL UNDER MARYLAND RULE 4–331.

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

22 (1) BE IN WRITING;

23 (2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS
24 BASED;

25 (3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE;

26 (4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR HEARING
27 IF A HEARING IS SOUGHT; AND

28 (5) DISTINGUISH THE NEWLY DISCOVERED EVIDENCE CLAIMED IN
29 THE PETITION FROM ANY CLAIMS MADE IN PRIOR PETITIONS.

30 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
31 SUBSECTION, THE COURT SHALL HOLD A HEARING ON A PETITION FILED UNDER

1 THIS SECTION IF THE PETITION SATISFIES THE REQUIREMENTS OF SUBSECTION
2 (B) OF THIS SECTION AND A HEARING WAS REQUESTED.

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

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

9 (2) THE COURT SHALL STATE THE REASONS FOR ITS RULING ON
10 THE RECORD.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.