

# SENATE BILL 486

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9lr2006  
CF HB 366

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By: **Senators Kelley, Forehand, Gladden, and Raskin**

Introduced and read first time: February 4, 2009

Assigned to: Judicial Proceedings

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## 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.**

24 (A) **A CONVICTED PERSON, AT ANY TIME, MAY FILE A PETITION FOR**  
25 **WRIT OF ACTUAL INNOCENCE IN THE CIRCUIT COURT FOR THE COUNTY IN**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHICH THE CONVICTION WAS IMPOSED IF THE PERSON CLAIMS THAT THERE IS  
2 NEWLY DISCOVERED EVIDENCE THAT:

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

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

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

9 (1) BE IN WRITING;

10 (2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS  
11 BASED;

12 (3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE;

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

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

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.