SENATE BILL 486

E29lr2006 CF HB 366

By: Senators Kelley, Forehand, Gladden, and Raskin, Brochin, and Frosh

Introduced and read first time: February 4, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2009

CHAPTER

AN ACT concerning 1

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Criminal Procedure - Petition for Writ of Actual Innocence - Newly **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 6 evidence that meets certain requirements; establishing requirements for a petition filed under this Act; requiring the court to hold a hearing on the 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

Section 8-301 to be under the new subtitle "Subtitle 3. Newly Discovered

Evidence" 16

Annotated Code of Maryland 17

(2008 Replacement Volume) 18

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 20

MARYLAND, That the Laws of Maryland read as follows:

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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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;
- 14 (2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS
- 15 BASED;
- 16 (3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE;
- 17 (4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR HEARING
- 18 IF A HEARING IS SOUGHT; AND
- 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
- 29 COURT MAY SET ASIDE THE VERDICT, RESENTENCE, GRANT A NEW TRIAL, OR
- 30 CORRECT THE SENTENCE, AS THE COURT CONSIDERS APPROPRIATE.

7	THE RECOR	(2) RD.	THE COURT SHALL STATE THE REASONS FOR ITS RULING O
I	(E) BURDEN OF		TITIONER IN A PROCEEDING UNDER THIS SECTION HAS THOF.
	SECT October 1, 2		. AND BE IT FURTHER ENACTED, That this Act shall take effe
# -	Approved:		Governor. President of the Senate.
-			Speaker of the House of Delegates.