

CHAPTER 744

(Senate Bill 486)

AN ACT concerning

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

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 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 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 petitioner in a proceeding under this Act has the burden of proof; and generally relating to newly discovered evidence and petitions for writs of actual innocence.

BY adding to

Article – Criminal Procedure

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

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Criminal Procedure

SUBTITLE 3. NEWLY DISCOVERED EVIDENCE.

8–301.

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

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

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

(B) A PETITION FILED UNDER THIS SECTION SHALL:

- (1) BE IN WRITING;**
- (2) STATE IN DETAIL THE GROUNDS ON WHICH THE PETITION IS BASED;**
- (3) DESCRIBE THE NEWLY DISCOVERED EVIDENCE;**
- (4) CONTAIN OR BE ACCOMPANIED BY A REQUEST FOR HEARING IF A HEARING IS SOUGHT; AND**
- (5) DISTINGUISH THE NEWLY DISCOVERED EVIDENCE CLAIMED IN THE PETITION FROM ANY CLAIMS MADE IN PRIOR PETITIONS.**

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

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

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

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

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

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

Approved by the Governor, May 19, 2009.