

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 626
Judiciary

(Delegate Clippinger, *et al.*)

Judicial Proceedings

Criminal Procedure - Petition for Writ of Actual Innocence - Circuit Court
Jurisdiction

This bill limits the eligibility for the filing of a petition for a writ of actual innocence to persons convicted in a circuit court of an offense that was within the exclusive original trial jurisdiction of the circuit court or an attempt, conspiracy, or solicitation to commit the offense.

Fiscal Summary

State Effect: None. The bill is procedural in nature and is not expected to have a material effect on State finances.

Local Effect: None. The bill is procedural in nature and is not expected to have a material effect on local finances.

Small Business Effect: None.

Analysis

Current Law: A person who was charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may file a petition for a writ of actual innocence in the circuit court in the county in which the conviction was imposed if the person claims that there is newly discovered evidence that creates a substantial or significant possibility that the outcome in the case may have been different and the evidence could not have been discovered in time to move for a new trial.

Though a petition may be filed at any time, the petitioner is required to notify the State in writing of the filing of the petition. The State may file a response to the petition within 90 days of receiving notice or under a set time period ordered by the court. A court is required to hold a hearing on the petition if the petition meets the content requirements and contains a request for a hearing. However, a court may dismiss the petition without a hearing if the court finds that the petition fails to assert grounds on which relief may be granted.

In general, misdemeanor cases are heard in the District Court while felony cases are handled by the circuit courts. However, the District Court has concurrent jurisdiction with the circuit courts over misdemeanors punishable by imprisonment for three years or more or a fine of \$2,500 or more and other specified offenses, including human trafficking of a minor, manslaughter by automobile or vessel, homicide by automobile or vessel while intoxicated, felony credit card offenses, felony identity fraud, and felony theft offenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Service, State's Attorneys' Association, Department of Legislative Services

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ncs/kdm

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