

SB0348/138071/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 348  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “Gubernatorial Pardon Requirement – Repeal” and substitute “Certification of Error”; strike beginning with “repealing” in line 4 down through “Works;” in line 6 and substitute “authorizing a certain individual to request that a State’s Attorney certify that a conviction was made in error under certain circumstances; providing that an individual is eligible for a certain grant from the Board of Public Works if a State’s Attorney has certified that the individual’s conviction was made in error; establishing the Task Force to Study Erroneous Conviction and Imprisonment; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations on certain issues related to erroneous convictions and establishing innocence; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of certain provisions of this Act;”; and after line 7, insert:

“BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 8-301(a), (f), and (g)

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY adding to

Article – Criminal Procedure

Section 8-301(h)

Annotated Code of Maryland

(Over)

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(2008 Replacement Volume and 2016 Supplement)”.

AMENDMENT NO. 2

On page 1, after line 14, insert:

“Article – Criminal Procedure

8–301.

(a) A person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may, at any time, 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 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.

(f) (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.

(g) A petitioner in a proceeding under this section has the burden of proof.

**(H) ON WRITTEN REQUEST BY THE PETITIONER, THE STATE’S ATTORNEY MAY CERTIFY THAT A CONVICTION WAS IN ERROR, IF:**

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**(1) THE COURT GRANTS A PETITION FOR RELIEF UNDER THIS SECTION;**

**(2) IN RULING ON A PETITION UNDER THIS SECTION, THE COURT SETS ASIDE THE VERDICT OR GRANTS A NEW TRIAL; AND**

**(3) THE STATE’S ATTORNEY DECLINES TO PROSECUTE THE PETITIONER BECAUSE THE STATE’S ATTORNEY DETERMINES THAT THE PETITIONER IS INNOCENT.”.**

**AMENDMENT NO. 3**

On page 1, in line 17, strike the brackets; and in the same line, strike “**THE**”.

On page 2, in line 4, strike the bracket; in the same line, strike “only”; in line 5, after “if” insert “:

**(1)**”;

in line 6, after “error” insert “**; OR**

**(2) THE STATE’S ATTORNEY CERTIFIES THAT THE INDIVIDUAL’S CONVICTION WAS IN ERROR UNDER § 8-301 OF THE CRIMINAL PROCEDURE ARTICLE**”;

in line 7, strike the bracket; in line 9, strike the brackets; in the same line, strike “**(C)**”; in line 18, strike the brackets; and in the same line, strike “**(D)**”.

**AMENDMENT NO. 4**

On page 2, after line 22, insert:

(Over)

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“SECTION 2. AND BE IT FURTHER ENACTED, That:

- (a) There is a Task Force to Study Erroneous Conviction and Imprisonment.
- (b) The Task Force consists of the following members:
  - (1) two members of the Senate of Maryland, appointed by the President of the Senate;
  - (2) two members of the House of Delegates, appointed by the Speaker of the House;
  - (3) the Public Defender of Maryland, or the Public Defender’s designee;
  - (4) the President of the Maryland State’s Attorney’s Association, or the President’s designee;
  - (5) the Executive Director of the Governor’s Office of Crime Control and Prevention, or the Executive Director’s designee;
  - (6) a representative with expertise in criminal postconviction procedures from the University of Maryland School of Law, appointed by the Dean of the school; and
  - (7) a representative of the Innocence Project Clinic from the University of Baltimore School of Law, appointed by the Dean of the school.
- (c) The Governor shall designate the chair of the Task Force.
- (d) The Governor’s Office of Crime Control and Prevention shall provide staff for the Task Force.

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(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the State's current process for establishing whether a conviction was made in error and for determining the innocence of a person erroneously convicted;

(2) study the processes and standards in other states for designating an erroneous conviction, determining a person's innocence, and compensating a person for imprisonment based on an erroneous conviction; and

(3) make recommendations on whether the State should create and implement a new process to designate an erroneous conviction and determine the innocence of a person erroneously convicted, including whether a specific agency should certify that a person is innocent.

(g) On or before December 15, 2017, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.”;

in line 23, strike “2.” and substitute “3.”; and in line 24, after the period insert “Section 2 of this Act shall remain effective for a period of 1 year and, at the end of September 30, 2018, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.”.