

2018 Regular Session

HOUSE BILL NO. 61

BY REPRESENTATIVE DWIGHT

CRIMINAL/APPEALS: Provides relative to applications for post-conviction relief filed by persons who are sentenced to death

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 930.8(A)(4), relative to post-conviction relief in capital cases; to provide relative to the time limit within which
3 conviction relief in capital cases; to provide relative to the time limit within which
4 post-conviction relief applications may be filed; to provide relative to the exceptions
5 to this time limitation for persons who have been sentenced to death; to require that
6 certain information be included in applications filed under this exception; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 930.8(A)(4) is hereby amended and
10 reenacted to read as follows:

11 Art. 930.8. Time limitations; exceptions; prejudicial delay

12 A. No application for post-conviction relief, including applications which
13 seek an out-of-time appeal, shall be considered if it is filed more than two years after
14 the judgment of conviction and sentence has become final under the provisions of
15 Article 914 or 922, unless any of the following apply:

16 * * *

17 (4)(a) The person asserting the claim has been sentenced to death. However,
18 in such cases, no application for post-conviction relief may be filed more than three
19 years after the judgment of conviction and sentence has become final under the
20 provisions of Article 914 or 922.

1 (b) An application for post-conviction relief timely filed pursuant to the
 2 provisions of this Subparagraph shall include all substantive claims. If the
 3 application was filed prior to August 1, 2018, the petitioner shall amend the
 4 application to include all substantive claims within one hundred eighty days of
 5 August 1, 2018.

6 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 61 Original

2018 Regular Session

Dwight

Abstract: Provides relative to the time period within which a person who is sentenced to death may file an application for post-conviction relief and requires that certain information be included in such applications.

Present law authorizes a person who is in custody after being sentenced for conviction of an offense to file a petition seeking to have the conviction and sentence set aside only on the following grounds:

- (1) The conviction was obtained in violation of the U.S. or La. Const.
- (2) The court exceeded its jurisdiction.
- (3) The conviction or sentence subjected him to double jeopardy.
- (4) The limitations on the institution of prosecution had expired.
- (5) The statute creating the offense for which he was convicted and sentenced is unconstitutional.
- (6) The conviction or sentence constitute the ex post facto application of law in violation of the U.S. or La. Const.
- (7) The results of DNA testing proves by clear and convincing evidence that the petitioner is factually innocent of the crime for which he was convicted.

Present law requires post-conviction relief applications to be filed within two years after the date on which the judgment of conviction and sentence has become final, unless certain conditions apply including the condition that the person asserting the claim has been sentenced to death.

Proposed law retains present law but provides that an application for post-conviction relief filed by a person who has been sentenced to death cannot be filed more than three years after the judgment of conviction and sentence has become final.

Proposed law also provides that the application for post-conviction relief filed by a person who has been sentenced to death must include all substantive claims. Further provides that if the application was filed prior to Aug. 1, 2018, the petitioner shall amend the application to include all substantive claims within 180 days of Aug. 1, 2018.

(Amends C.Cr.P. Art. 930.8(A)(4))