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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 739

02/04/2019 Authored by Mariani, Her, Hamilton, Lee and Vang
The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act

1.2 relating to judiciary; modifying when court may hear petition for postconviction
1.3 relief; amending Minnesota Statutes 2018, section 590.01, subdivision 4.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2018, section 590.01, subdivision 4, is amended to read:

1.6 Subd. 4. **Time limit.** (a) No petition for postconviction relief may be filed more than
1.7 two years after the later of:

1.8 (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or

1.9 (2) an appellate court's disposition of petitioner's direct appeal.

1.10 (b) Notwithstanding paragraph (a), a court may hear a petition for postconviction relief
1.11 if:

1.12 (1) the petitioner establishes that a physical disability or mental disease precluded a
1.13 timely assertion of the claim;

1.14 (2) the petitioner alleges the existence of newly discovered evidence, including scientific
1.15 evidence, that could not have been ascertained by the exercise of due diligence by the
1.16 petitioner or petitioner's attorney within the two-year time period for filing a postconviction
1.17 petition, and the evidence is not cumulative to evidence presented at trial, is not for
1.18 impeachment purposes, and establishes by a clear and convincing standard that the petitioner
1.19 is innocent of the offense or offenses for which the petitioner was convicted;

1.20 (3) the petitioner asserts a new interpretation of federal or state constitutional or statutory
1.21 law by either the United States Supreme Court or a Minnesota appellate court and the

2.1 petitioner establishes that this interpretation is retroactively applicable to the petitioner's
2.2 case;

2.3 (4) the petition is brought pursuant to subdivision 3; ~~or~~

2.4 (5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous
2.5 and is in the interests of justice;; or

2.6 (6) the petitioner is either placed into removal proceedings, detained for the purpose of
2.7 deportation, or deportation may be likely.

2.8 (c) Any petition invoking an exception provided in paragraph (b) must be filed within
2.9 two years of the date the claim arises. A claim arises when the petitioner has actual
2.10 knowledge of the consequence of the criminal conviction.