

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1045

By: Biggs

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2011, Section 1080, which relates to post-  
9 conviction procedures; modifying procedures for  
10 filing petitions for post-conviction relief; defining  
11 phrase; providing time limitations for filing  
12 petitions; prohibiting the filing of petitions for  
13 post-conviction relief under certain circumstances;  
14 providing for the dismissal of petitions; authorizing  
15 motions to reopen previous post-conviction petitions  
16 under certain circumstances; stating requirements for  
17 filing motion; making procedural requirements for  
18 filing petitions apply retroactively; and providing  
19 an effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1080, is  
22 amended to read as follows:

23 Section 1080. A. Any person who has been convicted of, or  
24 sentenced for, a crime and who claims:

~~(a) that~~ 1. That the conviction or the sentence was in  
violation of the Constitution of the United States or the  
Constitution or laws of this state;

1 ~~(b) that~~ 2. That the court was without jurisdiction to impose  
2 sentence;

3 ~~(c) that~~ 3. That the sentence exceeds the maximum authorized by  
4 law;

5 ~~(d) that~~ 4. That there exists evidence of material facts, not  
6 previously presented and heard, that requires vacation of the  
7 conviction or sentence in the interest of justice;

8 ~~(e) that his~~ 5. That the sentence has expired, ~~his the~~  
9 suspended sentence, probation, parole, or conditional release has  
10 been unlawfully revoked, or ~~he the person~~ is otherwise unlawfully  
11 held in custody or other restraint; or

12 ~~(f) that~~ 6. That the conviction or sentence is otherwise  
13 subject to collateral attack upon any ground of alleged error  
14 heretofore available under any common law, statutory or other writ,  
15 motion, petition, proceeding or remedy~~+~~,  
16 may institute a proceeding under this act in the court in which the  
17 judgment and sentence on conviction was imposed to secure the  
18 appropriate relief. Excluding a timely appeal, this act encompasses  
19 and replaces all common law and statutory methods of challenging a  
20 conviction or sentence.

21 B. Unless extraordinary cause is shown, in a case in which a  
22 sentence of death has not been imposed, a petition under this  
23 subsection may not be filed more than two (2) years after the  
24 sentence was imposed, or in cases in which a direct appeal was

1 properly filed, two (2) years after the mandate is issued in a  
2 direct appeal of the conviction, whichever is later. As used in the  
3 section, extraordinary cause shall mean:

4 1. Deoxyribonucleic acid (DNA) test results which conclusively  
5 show the defendant is factually innocent;

6 2. The recognition of a new constitutional right that has been  
7 made applicable retroactively to cases; or

8 3. Newly discovered evidence which could not have been  
9 discovered with due diligence within two (2) years of the imposition  
10 of sentence or the conclusion of the direct appeal.

11 C. In claims based on paragraph 2 or 3 of subsection B of this  
12 section, a petition shall not be filed more than two (2) years  
13 after the date on which the constitutional right was recognized by  
14 the Supreme Court of the United States or the Oklahoma Court of  
15 Criminal Appeals, nor more than two (2) years after the date on  
16 which the evidence could have been discovered through due diligence.

17 D. In any case in which a sentence was imposed or a direct  
18 appeal was filed before November 1, 2015, a petition under  
19 subsection B of this section may not be filed more than two (2)  
20 years after November 1, 2015, other than those in which  
21 extraordinary cause is shown. In such cases where extraordinary  
22 cause is shown, the petition must be filed within the time frames  
23 set forth in subsection C of this section. Nothing herein shall  
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1 prevent the denial of any petitions based on the doctrine of laches  
2 on petitions which do not show extraordinary cause.

3 E. This statute contemplates the filing of only one petition  
4 for post-conviction relief. In no event may more than one petition  
5 for post-conviction relief be filed attacking a single judgment or  
6 multiple judgments from a single trial. If a prior petition for  
7 post-conviction relief was filed and then resolved on the merits or  
8 on a procedural bar by a court of competent jurisdiction, any second  
9 or subsequent petition for post-conviction relief shall be summarily  
10 dismissed by the court.

11 F. A petitioner may at any time file a motion to reopen the  
12 first petition for post-conviction relief based upon extraordinary  
13 cause as defined in subsection B of this section. The motion shall  
14 set out the factual basis underlying its claims and must be  
15 supported by affidavit. The factual information set out in the  
16 affidavit shall be limited to information which, if offered at an  
17 evidentiary hearing, would be admissible through the testimony of  
18 the affiant under the rules of evidence. The motion to reopen the  
19 first petition for post-conviction relief shall be summarily  
20 dismissed by the court unless the factual allegations, if true, meet  
21 the definition of extraordinary cause as defined in subsection B of  
22 this section.

23 G. The provisions of this section are procedural and shall  
24 apply retroactively to any defendant sentenced in this state.

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SECTION 2. This act shall become effective November 1, 2015.

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