

HOUSE BILL 2811

By Hulseby

AN ACT to amend Tennessee Code Annotated, Title 27
and Title 40, relative to evidence.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 30, is amended by adding the following as a new part:

40-30-501.

As used in this part, "new evidence" means evidence not known by the judge or jury at the time guilt was determined or at the time of conviction.

40-30-502.

(a) Notwithstanding parts 1, 3, and 4 of this chapter, or other law governing post-conviction relief, a district attorney general or a person convicted of a criminal offense may, at any time, request relief under this part by filing a petition alleging actual innocence based on new evidence if a petition has not been previously filed and determined under this part based on the same evidence. Relief under this part does not require proof of an independent constitutional violation.

(b) A proceeding under this part is commenced by filing, with the clerk of the court in which the conviction occurred, a written petition alleging actual innocence based on new evidence. The clerk shall not charge a fee for the filing of the petition.

(c) The petition must include allegations of fact supporting each claim for relief. The petition and any amended petition must be verified under oath. Affidavits, records, or other evidence supporting the allegations in the petition may be attached to the petition.

(d) If the court determines that the petitioner has filed a facially valid petition alleging actual innocence based on new evidence, then the court shall issue an order scheduling the matter for a hearing within thirty (30) days.

(e) At the hearing, the petitioner has the burden of proving that if the new evidence had been known by the judge or jury at the time guilt was determined, it is more likely than not that no reasonable judge or juror would have convicted the petitioner of the offense.

(f) Irrespective of whether the conviction or finding of guilt was determined following a jury trial, plea of guilty, plea of best interest, or plea of no contest:

(1) If the court determines that the petitioner has shown that it is more likely than not that no reasonable judge or juror would have convicted the petitioner of the offense if the new evidence had been known by the judge or jury at the time guilt was determined or at the time of conviction, then the court shall vacate and set aside the conviction; or

(2) If the court determines that the petitioner has not shown that it is more likely than not that no reasonable judge or juror would have convicted the petitioner of the offense if the new evidence had been known by the judge or jury at the time guilt was determined or at the time of conviction, then the court shall dismiss the petition.

SECTION 2. This act takes effect July 1, 2024, the public welfare requiring it.