

2SHB 2065 - H AMD 1057

By Representative Davis

1 On page 2, line 35, after "incarcerated" insert ". A petitioner's  
2 significant disciplinary record may be overcome by a substantial  
3 period free from significant infractions that precedes the petition"  
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5 On page 3, beginning on line 4, after "determines" strike all  
6 material through "incarcerated" on line 7 and insert "there is  
7 evidence of an extraordinary adverse impact of the petitioner's  
8 release on the victim or survivors of the victim of the crime for  
9 which the petitioner is presently incarcerated, with special  
10 consideration given to the impact of release on any victims of sex  
11 offenses or domestic violence offenses committed against an intimate  
12 partner"  
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14 On page 3, line 19, after "(3)" insert "If the court denies a  
15 petition filed pursuant to this section and declines to set a hearing,  
16 or grants a hearing but declines to modify the petitioner's sentence  
17 at the hearing, the petitioner may, upon a showing of a change in  
18 circumstances, file a new petition no earlier than three years after  
19 the date the court denied the previous petition or declined to modify  
20 the petitioner's sentence, unless the court authorizes the petitioner  
21 to file a new petition at an earlier date. If the court denies the  
22 petition or declines to modify the petitioner's sentence, the court  
23 shall state the basis for its decision on the record. The petitioner  
24 may appeal the denial of a hearing or an order entered pursuant to a  
25 resentencing hearing, provided, however, that denying a petition filed  
26 pursuant to this section shall not reopen the petitioner's conviction  
27 or sentence to any other challenges that would otherwise be barred.

1 (4)"

2

3 Renumber the remaining subsections consecutively and correct any  
4 internal references accordingly.

5

6 On page 3, line 24, after "(4)" insert "Any incarcerated  
7 individual who is eligible to file a petition under this section and  
8 unable to afford counsel is entitled to have counsel appointed, at no  
9 cost to the individual, to represent the individual for the petition  
10 and proceedings under this section, unless the individual expressly  
11 waives the right to counsel after being fully advised of this right by  
12 the court. The right to appointed counsel under this subsection does  
13 not establish a right to appointed counsel for any appeal or second or  
14 subsequent petition under this act.

15 (5)"

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17 Renumber the remaining subsections consecutively and correct any  
18 internal references accordingly.

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EFFECT:

- Modifies the reasons for which a court may deny a motion for resentencing.
- Establishes timelines for when a petitioner may file a new petition for resentencing.
- Requires a court to state the basis of its decision on the record if denying a petitioner's request for a hearing or resentencing.
- Authorizes petitioners to appeal a denial of a hearing or an order entered pursuant to a resentencing hearing.
- Establishes when an incarcerated person is eligible to have counsel appointed if the individual is unable to afford counsel.

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