

Committee: JUD

PROPOSED COMMITTEE AMENDMENT 7/20/20

LR # and item number: 1340(02)

Changes from 7/8 draft shaded

New Title?: YES

Add Emergency?: no

Date: 7/20/2020

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COMMITTEE AMENDMENT “.” To LD 302, An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Evidence in Each Case Involving a Claim of Innocence

Amend the bill by amending the title to read:

An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Newly-discovered Evidence ~~in Each Case Involving a Claim of Innocence~~

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

Sec. 1. 15 MRSA §2128-B is enacted to read:

§2128-B. Time for filing

The following filing deadlines apply.

1. Filing deadline for direct impediment. ~~A- Except as provided in subsection 1-A,~~ a one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 1 or 1-A. The limitation period runs from the latest of the following:

A. The date of final disposition of the direct appeal from the underlying criminal judgment or the expiration of the time for seeking the appeal; and

B. The date on which the constitutional right, state or federal, asserted was initially recognized by the Law Court or the Supreme Court of the United States if the right has been newly recognized by that highest court and made retroactively applicable to cases on collateral review; ~~or,~~

~~C. The date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.~~

The time during which a properly filed petition for writ of certiorari to the Supreme Court of the United States with respect to the same criminal judgment is pending is not counted toward any period of limitation under this subsection.

Sec. 2. 15 MRSA §2128-B, sub-§1-A is enacted to read:

1-A. No filing deadline for direct impediment if newly discovered evidence. If the factual predicate of the claim is based on newly discovered evidence then the claim

may be filed at any time regardless of when the newly discovered evidence could have been obtained or discovered through the exercise of due diligence. The court may require the petitioner to provide additional information about the nature of the newly-discovered evidence.

SUMMARY

This amendment replaces the bill. It provides that there is no deadline for filing a petition for post-conviction review based on newly-discovered evidence. The court may require the petitioner to provide additional information about the nature of the newly-discovered evidence. The Maine Rules of Unified Criminal Procedure provide for proceedings for post-conviction review. The rules are consistent with current law and will need to be revised to allow a petition for post-conviction review based on newly-discovered evidence to be filed at any time.