

**§2129. Petition and procedure****1. Filing of petition.** Petitions shall be filed as follows.

A. A proceeding for post-conviction review shall be commenced by filing a petition in the Superior Court in the county specified in section 2123. [PL 1981, c. 238, §5 (NEW).]

B. If the petitioner desires to have counsel appointed, he shall file an affidavit of indigency in the form prescribed by the Supreme Judicial Court. If the petitioner is incarcerated, the affidavit shall be accompanied by a certificate of the appropriate officer of the institution in which the petitioner is incarcerated as to the amount of money or securities on deposit to the petitioner's credit in any account in the institution. The failure to include an affidavit of indigency with the petition does not bar the court from appointing counsel upon a subsequent filing of an affidavit of indigency. [PL 1981, c. 238, §5 (NEW).]

C. Once the petition has been filed, the clerk shall forward a copy of the petition and any separate documents filed with it to the Chief Justice of the Superior Court and to the prosecutorial office that earlier represented the State in the underlying criminal or juvenile proceeding. [PL 2003, c. 29, §3 (AMD).]

[PL 2003, c. 29, §3 (AMD).]

**2. Assignment of case.**

[PL 2003, c. 29, §4 (RP).]

**3. Representation of respondent.** In all proceedings for postconviction review, the State may be represented by the prosecutorial office that earlier represented the State in the underlying criminal or juvenile proceeding. On a case-by-case basis, a different prosecutorial office may represent the State on agreement between the 2 prosecutorial offices.

[PL 1991, c. 622, Pt. D (RPR).]

**4. Bail pending disposition of petition.** Pending final disposition, the assigned justice or judge may order the release of the petitioner on bail at such time and under such circumstances and conditions as the Supreme Judicial Court provides by rule.

[PL 2011, c. 601, §12 (AMD).]

**5. Procedure in proceedings pursuant to this chapter.** In all respects not covered by statute, the procedure in proceedings under this chapter is as the Supreme Judicial Court provides by rule.

[PL 2003, c. 29, §5 (AMD).]

**6. Amendment to petition.**

[PL 1981, c. 238, §5 (RP).]

**7. Representation of respondent.**

[PL 1981, c. 238, §5 (RP).]

**8. Response.**

[PL 1981, c. 238, §5 (RP).]

**9. Discovery.**

[PL 1981, c. 238, §5 (RP).]

**10. Determination by court; hearing.**

[PL 1981, c. 238, §5 (RP).]

**11. Bail pending disposition of petition.**

[PL 1981, c. 238, §5 (RP).]

## SECTION HISTORY

PL 1979, c. 701, §15 (NEW). PL 1981, c. 238, §5 (RPR). PL 1983, c. 688, §9 (AMD). PL 1985, c. 209, §4 (AMD). PL 1985, c. 556, §3 (AMD). PL 1991, c. 622, §D (AMD). PL 2003, c. 29, §§3-5 (AMD). PL 2011, c. 601, §12 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.