

Regular Session, 2010

SENATE BILL NO. 237

BY SENATOR HEITMEIER

CRIMINAL PROCEDURE. Provides for a requirement of due diligence as to new evidence regarding a filing for post conviction relief. (8/15/10)

1 AN ACT
2 To amend and reenact Code of Criminal Procedure Art. 930.8(A)(1), relative to post
3 conviction relief; to provide that certain facts alleged in an application for relief were
4 not discoverable by the exercise of due diligence; and to provide for related matters.
5 Be it enacted by the Legislature of Louisiana:
6 Section 1. Code of Criminal Procedure Art. 930.8(A)(1) is hereby amended and
7 reenacted to read as follows:
8 Art. 930.8. Time limitations; exceptions; prejudicial delay
9 A. No application for post conviction relief, including applications which seek an
10 out-of-time appeal, shall be considered if it is filed more than two years after the judgment
11 of conviction and sentence has become final under the provisions of Article 914 or 922,
12 unless any of the following apply:
13 (1) The application alleges, and the petitioner proves or the state admits, that the facts
14 upon which the claim is predicated were not known to the petitioner or his attorney nor were
15 they discoverable through the exercise of due diligence.
16 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

Present law requires that no application for post conviction relief be considered if filed more than two weeks after the judgement of conviction and sentence has become final unless certain items apply. Provides that one item is that the application for post conviction relief alleges, and the petitioner proves or the state admits that the facts upon which the claim is predicated were not known to the petitioner or his attorney.

Proposed law retains this provision but adds requirement that the facts upon which the application is predicated could not be discoverable through the exercise of due diligence.

Effective August 15, 2010.

(Amends C. Cr. P. Art. 930.8(A)(1))