

2024 Regular Session

SENATE BILL NO. 383

BY SENATOR DUPLESSIS

CRIMINAL PROCEDURE. Provides relative to postconviction relief for defendants convicted by a non-unanimous jury verdict. (8/1/24)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 930.4(G) and to enact Code of Criminal Procedure Art. 930.3(9), 930.4(H), and 930.8(A)(7), relative to post conviction relief; to provide relative to applications for post conviction relief based upon a conviction obtained by a non-unanimous jury verdict; to provide relative to grounds for relief; to provide relative to repetitive applications for relief; to provide relative to time limitations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 930.4(G) is hereby amended and reenacted and Code of Criminal Procedure Art. 930.3(9), 930.4(H), and 930.8(A)(7) are hereby enacted to read as follows:

Art. 930.3. Grounds

If the petitioner is in custody after sentence for conviction for an offense, relief shall be granted only on the following grounds:

\* \* \*

**(9) The conviction was obtained by a non-unanimous jury verdict.**

Art. 930.4. Repetitive applications



- (6) The conviction or sentence constitutes the ex post facto application of law in violation of the U.S. or La. Constitution.
- (7) The petitioner is determined by clear and convincing DNA or other evidence to be factually innocent.

Proposed law retains present law and makes a conviction obtained by a non-unanimous jury verdict a ground for post conviction relief.

Present law provides that, unless required in the interest of justice, any claim for relief that was fully litigated in an appeal from the judgment of conviction and sentence will not be considered. Present law further provides that the court will deny relief if the application alleges a claim knew about but inexcusably failed to raise in the proceedings leading to conviction, or if the application alleges a claim that the petitioner raised in the trial court but inexcusably failed to pursue on appeal. Present law further provides that successive applications will be dismissed if they fail to raise a new claim or raise a new claim that was inexcusably omitted from a prior application. Present law further provides that if the court considers dismissing an application for failure to raise the claim previously, the court will order the petitioner to state reasons for the failure, and if the court finds that the failure was excusable, it will consider the merits of the claim.

Proposed law retains present law and adds that if the petitioner's conviction was obtained by a non-unanimous jury verdict, it will not be considered repetitive nor barred by present law.

Present law provides that an application for post conviction relief, including applications which seek an out-of-time appeal, will not be considered if it is filed more than two years after the judgment of conviction and sentence has become final unless any of the following apply:

- (1) The application 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 prior attorneys, subject to certain conditions.
- (2) The claim asserted in the petition is based upon a final ruling of an appellate court establishing a theretofore unknown interpretation of constitutional law and petitioner establishes that this interpretation is retroactively applicable to his case, and the petition is filed within one year of the finality of such ruling.
- (3) The application would already be barred by the provisions of present law but the application is filed on or before October 1, 2001, and the date on which the application was filed is within three years after the judgment of conviction and sentence has become final.
- (4) The person asserting the claim has been sentenced to death.
- (5) The petitioner qualifies for certain present law exceptions to timeliness based upon DNA testing or factual innocence.

Proposed law retains present law and adds an exception to present law time limitations for applications when the petitioner's conviction was obtained by a non-unanimous jury verdict.

Effective August 1, 2024.

(Amends C.Cr.P. Art. 930.4(G); adds C.Cr.P. Art. 930.3(9), 930.4(H), and 930.8(A)(7))