

2025 Regular Session

SENATE BILL NO. 218

BY SENATOR DUPLESSIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL PROCEDURE. Provides relative to post conviction relief for defendants convicted by a non-unanimous jury verdict. (8/1/25)

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Arts. 930.4(G) and 930.8(E) are hereby
10 amended and reenacted and Code of Criminal Procedure Articles 930.3(9), 930.4(H), and
11 930.8(A)(7) are hereby enacted to read as follows:

12 Art. 930.3. Grounds

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

15 * * *

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

17 Art. 930.4. Repetitive applications

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G. ~~All~~ **Except as provided in Paragraph H of this Article, all** of the limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

H. Notwithstanding any provision of this Code to the contrary, an application for post conviction relief alleging that the petitioner's conviction was obtained by a non-unanimous jury verdict shall not be considered repetitive nor barred by any provision of this Article.

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Art. 930.8. Time limitations; exceptions; prejudicial delay

A. No application for post conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of Article 914 or 922, unless any of the following apply:

* * *

(7) The petitioner's conviction was obtained by a non-unanimous jury verdict.

* * *

E. ~~All~~ **Except as provided in Subparagraph (A)(7) of this Article, all** of the limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 218 Original 2025 Regular Session Duplessis

Present law provides relative to post conviction relief. Present law provides that if the petitioner is in custody after sentence for conviction for an offense, relief will be granted only on the following grounds:

- (1) The conviction was obtained in violation of the U.S. or La. Constitution.
- (2) The court exceeded its jurisdiction.

- (3) The conviction or sentence subjected him to double jeopardy.
- (4) The limitations on the institution of prosecution had expired.
- (5) The statute creating the offense for which he was convicted and sentenced is unconstitutional.
- (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.

Present law provides that any attempt or request by a petitioner to supplement or amend the application shall be subject to all of the limitations and restrictions set forth in present law.

Present law requires that, in addition to serving the district attorney for the jurisdiction where the underlying conviction was obtained, any application filed after the first application for post conviction relief be served on the district attorney and the attorney general at least 60 days in advance of the hearing on the application. Both the district attorney and the attorney general have a right to suspensively appeal any order granting relief.

Present law provides any of the limitations set forth in present law are jurisdictional and prohibits the court or the district attorney from waiving or excusing those limitations.

Proposed law provides an exception to the prohibition against waiver or excusing limitations as it applies to applications where the conviction was obtained by a non-unanimous jury verdict.

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 the 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.

Present law provides any of the limitations set forth in present law are jurisdictional and prohibits the court or the district attorney from waiving or excusing those limitations.

Proposed law provides an exception to the prohibition against waiver or excusing limitations as it applies to applications where the conviction was obtained by a non-unanimous jury verdict.

Effective August 1, 2025.

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