

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 675

2025 Regular Session

Glorioso

CRIMINAL/PROCEDURE: Provides relative to post conviction relief

Synopsis of Senate Amendments

1. Makes technical changes.
2. Restores present law (C.Cr.P. Art. 925) provisions relative to venue.
3. Provides that an offender who pled guilty before Aug. 1, 2025, is subject to present law and proposed law relative to repetitive applications and time limitations.
4. Provides that a petitioner who pleads guilty on or after Aug. 1, 2025, is not entitled to assert a claim of factual innocence.
5. Deletes proposed law changes relative to assertions of factual innocence.
6. Clarifies that the petitioner has to prove both that due diligence and exceptional circumstances exist that allow him to file an out-of-time application, rather than proving either of these criteria.
7. Relative to applications filed pursuant to present law (C.Cr.P. Art. 930.8) that are barred on the basis of timeliness, changes one of the exceptions from three years after the judgment of conviction and the sentence is final for an application filed on or before Oct. 1, 2001, to two years after the judgment and final sentence for an application filed on or before Aug. 1, 2027.
8. Provides that a failure to timely request a hearing is presumed prejudicial as it pertains to an application for post-conviction relief.
9. Deletes proposed law changes relative to motions to reconsider or vacate.
10. Provides for submission of per curiam opinions.
11. Provides for additional funding to public defenders to litigate post-conviction relief applications in capital cases.
12. Relative to shell petitions, changes the proposed law time period for the submission of a fully-briefed petition from within 180 days of July 1, 2025, to no later than July 1, 2026, unless a shorter time has been established by the court.
13. Relative to an application for post conviction relief that is filed before July 1, 2023, changes the proposed law time period for the dismissal, scheduling, or adjudication of the application from within 180 days of July 1, 2025, to no later than July 1, 2026, unless the court has good cause to establish a later date.
14. Changes the date by which claims shall be fully adjudicated from July 1, 2026, to Jan. 1, 2027.
15. Removes language relative to the district attorney's waiver of procedural objections within the proposed law time periods.
16. Provides for the extension of time periods set forth in proposed law.
17. Changes the distribution of funding from the LPD Fund to the Overcollections Fund.

Digest of Bill as Finally Passed by Senate

Present law (C.Cr.P. Art. 924) provides for definitions.

Proposed law retains present law and defines the terms "post conviction relief" and "shell petition".

Present law (C.Cr.P. Art. 926) provides relative to petitions for post conviction relief.

Proposed law retains present law generally.

Proposed law provides that one of the items a petition is required to allege is that the person is actually in custody, and the name of the place of custody, if known. Further provides that a statement of the grounds upon which relief is sought shall be alleged in good faith.

Proposed law provides that the petition and any successive petitions shall be served upon both the attorney general and the district attorney for the parish where the defendant was convicted.

Proposed law provides that an individual shall be eligible for post conviction relief if he meets both of the following:

- (1) He is currently serving a sentence of imprisonment or is on probation or parole pursuant to a conviction.
- (2) He is in actual custody or under supervision of the division of probation and parole.

Proposed law provides that any claim alleged in an application that is procedurally barred or is frivolous on its face shall be dismissed.

Present law (C.Cr.P. Art. 926.2) provides relative to post conviction relief on the grounds that the petitioner is factually innocent of the offense for which he was convicted.

Proposed law provides that an offender who enters a guilty plea before Aug. 1, 2025, shall be subject to present law and proposed law relative to applications for post conviction relief. Proposed law otherwise retains present law.

Present law provides that an application for post conviction relief filed pursuant to present law by a petitioner who pled guilty or nolo contendere to the offense of conviction or filed by any petitioner after Dec. 31, 2022, shall be subject to present law.

Proposed law amends present law to provide that a petitioner who pled guilty to the offense of conviction on or after Aug. 1, 2025, shall not be entitled to assert a claim of factual innocence in any application for post conviction relief.

Present law provides that a recantation of prior sworn testimony may be considered if corroborated by the evidence. Further provides that a recantation of prior sworn testimony cannot form the sole basis for relief pursuant to present law.

Proposed law retains present law and provides that a recantation shall not be sufficient to overcome the presumption of a valid conviction.

Proposed law (C.Cr.P. Art. 926.4) provides that by raising any claim of ineffective assistance of counsel, the defendant waives the attorney-client privilege as to any information necessary to allow the state to rebut the claim.

Present law (C.Cr.P. Art. 927) provides for the filing of procedural objections in response to an application for post conviction relief.

Proposed law retains present law generally.

Proposed law provides that the court shall conduct a preliminary review of all petitions for post conviction relief for compliance with the limitations for relief established in proposed law. Further provides for factors that the court is required to consider, among other things, in its review of the application.

Proposed law provides for the dismissal of application and duties of court.

Present law provides for procedures when an application is not dismissed.

Proposed law amends present law to provide that the district attorney may file procedural objections or an answer on the merits within 60 days, rather than 30 days and provides that the district attorney's response shall be provided to the attorney general even if the district attorney waives or does not file procedural objections.

Proposed law provides for service of the response to the attorney general if any objections are waived by the district attorney. Further provides that the attorney general shall have 30 days to file objections.

Proposed law provides that no hearing on the merits shall be ordered if procedural objections are filed by the district attorney or the attorney general.

Proposed law provides for notice to the attorney general if certain applications are filed and procedures for applications that cannot be summarily dismissed.

Proposed law (C.Cr.P. Art. 927.1) provides for duties of the petitioner regarding the abandonment of an application and what constitutes abandonment of an application. Further defines the term "pleading in furtherance of disposition of the application".

Present law (C.Cr.P. Art. 928) provides that an application for post conviction relief may be dismissed without an answer if the application fails to allege a claim which, if established, would entitle the petitioner to relief.

Proposed law repeals present law.

Present law (C.Cr.P. Art. 930) provides for evidentiary hearings.

Proposed law retains present law and provides that the evidentiary hearing shall be ordered within the time period provided in proposed law.

Present law (C.Cr.P. Art. 930.2) provides that the petitioner in an application for post conviction relief shall have the burden of proving that relief should be granted.

Proposed law retains present law and provides that the state has no burden of proof in a post conviction relief proceeding.

Present law (C.Cr.P. Art. 930.4) provides relative to repetitive applications for post conviction relief.

Proposed law retains present law generally.

Proposed law provides that if a repetitive application alleges a claim seeking to apply a new rule of criminal procedure that has been held by the U.S. Supreme Court and the La. Supreme Court to be non-retroactive, the court shall deny relief.

Proposed law provides for procedures relative to service and notice when a petitioner attempts or requests to amend an application for post conviction relief.

Present law (C.Cr.P. Art. 930.5) provides that if a court grants relief under an application for post conviction relief, the court shall order that the petitioner be held in custody pending a new trial if it appears that there are legally sufficient grounds upon which to re prosecute the petitioner.

Proposed law amends present law to remove the reference to legally sufficient grounds for reprosecution.

Present law (C.Cr.P. Art. 930.6) provides for a review of trial court judgments.

Proposed law retains present law.

Present law further permits the state to appeal to the supreme court or court of appeal under circumstances and permits the district court or court of appeal to stay a judgment granting relief when an application for writ or appeal is pending.

Proposed law removes these provisions and provides that the district attorney and the attorney general shall have a right to suspensively appeal any order granting post conviction relief.

Present law (C.Cr.P. Art. 930.8) provides for time limitations and exceptions pertaining to applications post conviction.

Present law (C.Cr.P. Art. 930.8(A)(3)) provides that one of these exceptions is that the application would already be barred by present law, but the application is filed on or before Oct. 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.

Proposed law changes the date from Oct. 1, 2001, to Aug. 1, 2027, and the amount of time from three years to two years.

Proposed law removes applications that assert the offender has been sentenced to death from present law exceptions to filing post-conviction relief. Proposed law otherwise retains present law.

Proposed law provides that when the petitioner has been sentenced to death, all appellate review of post-conviction relief applications, including supervisory review of post-conviction relief applications, shall be filed directly with the La. Supreme Court.

Proposed law provides that when an execution warrant has been issued, any application for post-conviction relief that contains a new claim, pleading, or other legal matter shall be filed no later than 45 days prior to the execution date of the petitioner. Further provides a ruling on such applications shall be issued no later than 21 days prior to the execution date of the petitioner and that the exclusive means of review shall be a writ application filed directly with the La. Supreme Court within seven days of the ruling on the application.

Proposed law provides for the dismissal of an application based upon prejudice, what constitutes dismissal, the burden of the petitioner, and the effect of a final judgment of dismissal.

Present law (C.Cr.P. Art. 930.10) provides for post conviction plea agreements between the district attorney and the petitioner, with the approval of the district court.

Proposed law repeals present law.

Proposed law (C.Cr.P. Art. 930.11) provides for time periods that courts of appropriate jurisdiction, the district attorney, and the attorney general are to adhere to in post conviction proceedings. Further provides for the extension of these time periods, the right to seek a writ of mandamus to compel a court to issue a requested ruling within a specified time period, and that the reviewing court may order the lower court to submit a per curiam opinion.

Present law (R.S. 15:169) provides for the representation of capital defendants.

Proposed law retains present law generally and provides that the state public defender may request supplemental funding from the Joint Legislative Committee on the Budget (JLCB),

through distribution from the Overcollections Fund, on a case by case basis. Further provides for the submission of a report from the state public defender and the attorney general to the JLCB prior to it taking action on a request.

Present law (R.S. 15:578) provides for the enrollment of counsel by the office of the state public defender to represent a defendant on direct appeal and in any state post conviction proceedings in a capital case in which the jury imposed the death penalty.

Proposed law amends present law to provide that the court shall, within 30 days of the imposition of the sentence of death, order the office of the state public defender to have enrolled at least one attorney for direct appeal and at least one separate attorney for state post conviction proceedings.

Proposed law directs the La. State Law Institute to renumber the provisions of present law (C.Cr.P. Art. 924) so as to properly place proposed law (C.Cr.P. Art. 924(5) and (6)).

(Amends C.Cr.P. Arts. 926(B) and (E), 926.2(A) and (B)(2) and (3)(intro. para.), 927, 930(A) and (C), 930.2, 930.4(Art. heading), (A), and (D)-(G), 930.5, 930.6(B), 930.8(A)(intro. para.) and (2)-(4) and (B)-(E) and R.S. 15:178; Adds C.Cr.P. Arts. 924(5) and (6), 926(F) and (G), 926.4, 927.1, 930.4(H), 930.8(F), 930.11, and R.S. 15:169(C); Repeals C.Cr.P. Arts. 928, 930.6(C), and 930.10)