

# SENATE BILL 971

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6lr3529  
CF 6lr3569

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By: **Senator Cassilly**

Introduced and read first time: February 10, 2016

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Petition for Writ of Actual Innocence – Appeal Right**

3 FOR the purpose of providing that a certain person aggrieved by an order on a petition for  
4 writ of actual innocence may appeal to the Court of Special Appeals; requiring the  
5 appeal to be in a form set by the Maryland Rules; providing that the court may take  
6 certain actions under certain circumstances; and generally relating to a petition for  
7 writ of actual innocence.

8 BY repealing and reenacting, without amendments,  
9 Article – Criminal Procedure  
10 Section 8–301(a)  
11 Annotated Code of Maryland  
12 (2008 Replacement Volume and 2015 Supplement)

13 BY adding to  
14 Article – Criminal Procedure  
15 Section 8–301(h) and (i)  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume and 2015 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
19 That the Laws of Maryland read as follows:

20 **Article – Criminal Procedure**

21 8–301.

22 (a) A person charged by indictment or criminal information with a crime triable  
23 in circuit court and convicted of that crime may, at any time, file a petition for writ of actual  
24 innocence in the circuit court for the county in which the conviction was imposed if the  
25 person claims that there is newly discovered evidence that:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (1)     creates a substantial or significant possibility that the result may have  
2 been different, as that standard has been judicially determined; and

3           (2)     could not have been discovered in time to move for a new trial under  
4 Maryland Rule 4-331.

5           **(H)    WITHIN 30 DAYS AFTER THE COURT PASSES AN ORDER IN ACCORDANCE**  
6 **WITH THIS SECTION, A PERSON AGGRIEVED BY THE ORDER, INCLUDING THE**  
7 **ATTORNEY GENERAL AND A STATE’S ATTORNEY, MAY OF APPEAL THE ORDER TO**  
8 **THE COURT OF SPECIAL APPEALS.**

9           **(I)    (1)    AN APPEAL FILED UNDER SUBSECTION (H) OF THIS SECTION**  
10 **SHALL BE IN THE FORM SET BY THE MARYLAND RULES.**

11           **(2)    IF THE ATTORNEY GENERAL OR A STATE’S ATTORNEY FILES AN**  
12 **APPEAL, THE COURT MAY:**

13                   **(I)    STAY THE ORDER; AND**

14                   **(II)   SET BAIL FOR THE PETITIONER.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2016.