

SENATE BILL NO. 66—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing certain postconviction petitions for a writ of habeas corpus. (BDR 3-441)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to writs of habeas corpus; revising provisions governing the county in which an offender must file a postconviction petition for a writ of habeas corpus challenging the computation of time the offender has served; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law: (1) authorizes an offender who is convicted of a crime and under a sentence of death or imprisonment to file a postconviction petition for a writ of habeas corpus; and (2) prescribes requirements governing the county in which any such petition must be filed. (NRS 34.724, 34.738) Under existing law, a postconviction petition for a writ of habeas corpus challenging the computation of time an offender has served must be filed with the clerk of the district court for the county in which the conviction occurred, unless the petitioner is incarcerated outside this State. If the petitioner is incarcerated outside this State, existing law requires the petitioner to file the petition with the clerk of the First Judicial District Court in Carson City. (NRS 34.738) **Section 1** of this bill revises these requirements by requiring a petitioner to file a postconviction petition for a writ of habeas corpus challenging the computation of time served by the petitioner with the clerk of: (1) the district court for the county in which the petitioner is incarcerated, if, at the time the petition is filed, the petitioner is incarcerated in this State; (2) the district court for the county in which the petitioner resides, if, at the time the petition is filed, the petitioner has been released from the custody of the Department of Corrections and resides in this State; or (3) the First Judicial District Court in Carson City, if, at the time the petition is filed, the petitioner is incarcerated outside this State or has been released from the custody of the Department and resides outside this State. **Section 2** of this bill makes the



21 amendatory provisions of **section 1** applicable to a postconviction petition for a  
22 writ of habeas corpus filed on or after the effective date of this bill.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1       **Section 1.** NRS 34.738 is hereby amended to read as follows:  
2       34.738 1. A petition that challenges the validity of a  
3 judgment of conviction or sentence must be filed with the clerk of  
4 the district court for the county in which the conviction occurred.  
5 Any other petition must be filed with the clerk of:  
6       (a) The district court for the county in which the petitioner is  
7 incarcerated ~~[; or]~~, *if, at the time the petition is filed, the petitioner*  
8 *is incarcerated in this State;*  
9       (b) *The district court for the county in which the petitioner*  
10 *resides, if, at the time the petition is filed, the petitioner has been*  
11 *released from the custody of the Department of Corrections and*  
12 *resides in this State; or*  
13       (c) The First Judicial District Court in and for Carson City, if ,  
14 *at the time the petition is filed, the petitioner [is] :*  
15       (1) *Is* incarcerated outside this State while serving a term of  
16 imprisonment imposed by a court of this State ~~[;]~~ ; *or*  
17       (2) *Has been released from the custody of the Department*  
18 *of Corrections and resides outside this State.*  
19       2. A petition that is not filed in the district court for the  
20 appropriate county:  
21       (a) Shall be deemed to be filed on the date it is received by the  
22 clerk of the district court in which the petition is initially lodged;  
23 and  
24       (b) Must be transferred by the clerk of that court to the clerk of  
25 the district court for the appropriate county.  
26       3. A petition must not challenge both the validity of a judgment  
27 of conviction or sentence and the computation of time that the  
28 petitioner has served pursuant to a judgment of conviction. If a  
29 petition improperly challenges both the validity of a judgment of  
30 conviction or sentence and the computation of time that the  
31 petitioner has served pursuant to a judgment of conviction, the  
32 district court for the appropriate county shall resolve that portion of  
33 the petition that challenges the validity of the judgment of  
34 conviction or sentence and dismiss the remainder of the petition  
35 without prejudice.  
36       **Sec. 2.** The amendatory provisions of this act do not apply to a  
37 postconviction petition for a writ of habeas corpus filed pursuant to  
38 NRS 34.724 before the effective date of this act.



1     **Sec. 3.** This act becomes effective upon passage and approval.

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