

HOUSE BILL 601

By Freeman

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to post-conviction relief.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 30, is amended by adding the following as a new part:

40-30-501.

As used in this part:

(1) "Actual innocence" means new evidence that establishes the petitioner's innocence by clear and convincing evidence or creates a substantial probability of a different result on retrial; and

(2) "New evidence" means evidence not known by the judge or jury at the time guilt was determined or at the time of conviction, and includes both scientific and non-scientific evidence of actual innocence.

40-30-502.

(a) Notwithstanding parts 1, 3, and 4 of this chapter, or another law governing post-conviction relief, a district attorney general or a person convicted of a criminal offense may, at any time, request relief under this part by filing a petition alleging actual innocence based on new evidence, if a petition has not been previously filed and determined under this part based on the same evidence. Relief under this part does not require proof of an independent constitutional violation.

(b) A proceeding under this part is commenced by filing a written petition alleging actual innocence based on new evidence with the court in which the conviction

occurred. The clerk shall not charge a fee for the filing of the petition. A petition under this part precludes filing a motion to reopen, pursuant to § 40-30-117, or a petition, pursuant to § 40-26-105, based upon the same new evidence.

(c) The petition must include allegations of fact supporting each claim for relief. The petition and any amended petition must be verified under oath. Affidavits, records, reports, or other evidence supporting the allegations in the petition may be attached to the petition.

(d) If the court determines that the petitioner has filed a colorable claim alleging actual innocence, based on new evidence, then the court must issue an order scheduling the matter for a hearing. The court must assume the veracity of the new evidence at the filing stage.

(e) At the hearing, the petitioner has the burden of proving that the new evidence establishes the petitioner's actual innocence.

(f) A petitioner may seek relief, irrespective of whether the conviction or finding of guilt was determined following a jury trial, plea of guilty, plea of best interest, or plea of no contest.

(g)

(1) If the court determines that the petitioner has shown that the new evidence establishes the petitioner's actual innocence, then the court shall vacate the conviction and order a new trial.

(2) If the court determines that the petitioner has not shown that the new evidence establishes the petitioner's actual innocence, then the court shall dismiss the petition.

(3) The order granting or denying relief is a final judgment, and an appeal may be taken to the court of criminal appeals in the manner prescribed by the Tennessee rules of appellate procedure.

(h) For a petition filed under this section, the attorney general and reporter must represent the state if the petition seeks review of a judgment imposing a sentence of death. For all other petitions, the district attorney general must represent the state.

(i) If subsection (h) or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision of application, and to that end, the provisions of this act are severable.

(j) After receiving a petition for relief under this section, the clerk must mail a copy of the petition to the office representing the state.

SECTION 2. This act takes effect July 1, 2025, the public welfare requiring it.