

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1153

Printer's No.: 1367

Sponsor: Senator Greenleaf

Prepared by: Gregg Warner

Synopsis: This bill amends section 9545 of the Judicial Code, Title 18 of the Pennsylvania Consolidated Statutes, to extend the filing deadline for petitions under the Post Conviction Relief Act (PCRA).

Summary:

Extension of time for filing petition

Generally a person convicted of a crime has one year from the date of the conviction to file a PCRA action challenging the conviction. If the person misses the one-year deadline there are three exceptions to the rule that allow the person to bring a PCRA petition despite the expiration of the one-year time limit. In the case of these three exceptions the person has 60 days to file a petition invoking the exception. The bill amends section 9545 to extend the 60-day time period to one year for bringing a PCRA petition based on one of the three exceptions.

Exception based on factual innocence

In addition to the other provisions of law authorizing the filing of a PCRA petition, the bill provides that a petition alleging a miscarriage of justice that led to the conviction of a person who was factually innocent of the crime for which he was convicted, in light of all the credible evidence available at and subsequent to trial, may be filed at any time.

Effective date

This act takes effect in 60 days.

Background:

Post Conviction Relief Act

42 Pa.C.S. Ch. 95 governs post-trial matters. Subchapter B (§§9541-9546), known as the Post Conviction Relief Act, “provides for an action by which persons convicted of crimes they did not commit and persons serving illegal sentences may obtain collateral relief” (§9542, relating to scope of subchapter).

Exceptions under section 9545

The exceptions under 42 Pa.C.S. §9545, relating to jurisdiction and proceedings, include (1) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim; (2) there is new evidence that was unknown to the person at the time of the trial and could not have been discovered by the exercise of due diligence; and (3) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or of Pennsylvania after the one-year time period expired and the court said that the right applied retroactively.

Sixty-day time period

The General Assembly established the 60-day requirement in 1995 during the special session on crime (Act 32) to reduce the number of frivolous petitions filed by inmates. The sponsor believes that the 60-day rule is a hurdle that works a hardship on many incarcerated individuals. Instead of 60 days, under Senate Bill 1153 a person convicted of a crime who several years later becomes aware of new evidence, for example, that quite possibly would have changed the outcome of his trial, would have one year to file the petition.

Scarborough case

In the case of Milton Scarborough, convicted with two others for a triple murder in Pennsylvania, all four witnesses recanted and two other people provided sworn affidavits identifying another person who they said confessed to participating in the murders. Scarborough has served more than 30 years in prison always maintaining his innocence. Despite the evidence that Scarborough did not participate in the murders, the court ruled that the 60-day rule precluded the court from even considering the new evidence.

According to the sponsor “The 60-day rule is unrealistic because it often takes years to determine whether fragments of new evidence, added together, are enough to construct a solid case. And, given that the persons involved are often incarcerated with no attorney actively working on their case, it makes complying with the rule next to impossible. The one-year rule is more realistic for most claims. However, there should be no time bar on a claim from a person who can present credible evidence that he is factually innocent of the crime for which he was convicted. Our law must give the courts an opportunity to at least review the evidence in these cases and not be forced to dismiss what may be a very valid claim simply because of the expiration of a time limit.”

Advisory Committee on Wrongful Convictions

The Joint State Government Commission’s Advisory Committee on Wrongful Convictions’ September 2011 report includes a proposal to increase the 60-day time period to one year.