

**HB0985/992510/1**

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 985

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “D.M. Davis, and Rosenberg” and substitute “Cardin, Conaway, Cox, Crutchfield, D.M. Davis, W. Fisher, Lopez, Shetty, Rosenberg, and Williams”; after line 3, insert “(The Walter Lomax Act)”; in line 4, after the first “of” insert “authorizing the State’s Attorney to certify that a conviction was in error under certain circumstances;”; in line 27, after “Hearings” insert “, in consultation with the Board,”; in the same line, after “regulations;” insert “prohibiting a person who provides certain services to obtain certain compensation from charging, demanding, receiving, or collecting payment except under certain circumstances; providing that a certain obligation incurred is void under certain circumstances;”; in line 28, after “or” insert “juvenile”; and in line 29, after “time” insert “and in a certain manner”.

On page 2, after line 4, insert:

“BY repealing and reenacting, without amendments,  
Article - Criminal Procedure  
Section 8-201(b), (c), and (i)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)

BY adding to  
Article - Criminal Procedure  
Section 8-201(l)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)”.

AMENDMENT NO. 2

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On page 2, after line 21, insert:

“Article – Criminal Procedure

8–201.

(b) Notwithstanding any other law governing postconviction relief, a person who is convicted of a crime of violence under § 14–101 of the Criminal Law Article may file a petition:

(1) for DNA testing of scientific identification evidence that the State possesses that is related to the judgment of conviction; or

(2) for a search by a law enforcement agency of a law enforcement data base or log for the purpose of identifying the source of physical evidence used for DNA testing.

(c) A petitioner may move for a new trial under this section on the grounds that the conviction was based on unreliable scientific identification evidence and a substantial possibility exists that the petitioner would not have been convicted without the evidence.

(i) (1) If the results of the postconviction DNA testing are unfavorable to the petitioner, the court shall dismiss the petition.

(2) If the petitioner was convicted as the result of a trial and the results of the postconviction DNA testing are favorable to the petitioner, the court shall:

(i) if no postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, open a postconviction proceeding under § 7–102 of this article;

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(ii) if a postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, reopen a postconviction proceeding under § 7–104 of this article; or

(iii) on a finding that a substantial possibility exists that the petitioner would not have been convicted if the DNA testing results had been known or introduced at trial, order a new trial.

(3) If the court finds that a substantial possibility does not exist under paragraph (2)(iii) of this subsection, the court may order a new trial if the court determines that the action is in the interest of justice.

(4) (i) If the petitioner was convicted as the result of a guilty plea, an Alford plea, or a plea of nolo contendere and the court determines that the DNA test results establish by clear and convincing evidence the petitioner’s actual innocence of the offense or offenses that are the subject of the petitioner’s motion, the court may, as the court considers appropriate:

1. if no postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, open a postconviction proceeding under § 7–102 of this article;

2. if a postconviction proceeding has been previously initiated by the petitioner under § 7–102 of this article, reopen a postconviction proceeding under § 7–104 of this article; or

3. set aside the conviction and schedule the matter for trial.

(ii) When assessing the impact of the DNA test results on the strength of the State’s case against the petitioner at the time the plea was entered, the court may consider, in addition to evidence that was presented as part of the factual

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support of the plea, admissible evidence submitted by either party that was contained in law enforcement files in existence at the time the plea was entered.

(iii) When determining an appropriate remedy under this paragraph, the court may consider any additional admissible evidence submitted by either party that came into existence after the plea was entered and is relevant to the petitioner's claim of actual innocence.

(5) If a new trial is granted or the matter is scheduled for trial, the court may order the release of the petitioner on bond or on conditions that the court finds will reasonably assure the presence of the petitioner at trial.

**(L) ON WRITTEN REQUEST BY THE PETITIONER, THE STATE'S ATTORNEY MAY CERTIFY THAT A CONVICTION WAS IN ERROR, IF:**

**(1) THE COURT GRANTS A PETITION FOR RELIEF UNDER THIS SECTION;**

**(2) IN RULING ON A PETITION UNDER THIS SECTION, THE COURT:**

**(I) SETS ASIDE THE VERDICT OR CONVICTION; OR**

**(II) SCHEDULES THE MATTER FOR TRIAL OR GRANTS A NEW TRIAL; AND**

**(3) THE STATE'S ATTORNEY DECLINES TO PROSECUTE THE PETITIONER BECAUSE THE STATE'S ATTORNEY DETERMINES THAT THE PETITIONER IS INNOCENT.**”;

strike beginning with the first comma in line 30 down through “ELIGIBILITY” in line 33 and substitute “THE PRODUCT OF THE TOTAL NUMBER OF DAYS THAT THE INDIVIDUAL WAS WRONGFULLY CONFINED MULTIPLIED BY A DAILY RATE OF THE STATE’S MOST RECENT MEDIAN HOUSEHOLD INCOME AS PUBLISHED IN THE AMERICAN COMMUNITY SURVEY OF THE U.S. CENSUS BUREAU PRECEDING THE FINDING OF ELIGIBILITY AND DIVIDED BY 365 DAYS TO THE NEAREST WHOLE CENT”.

On page 3, in line 2, strike “OF ELIGIBILITY”; in line 11, strike the second “AND” and substitute a comma; and in line 12, after “TRAINING” insert “, OR FINANCIAL LITERACY”.

AMENDMENT NO. 3

On page 4, in line 17, strike the brackets; strike beginning with “BASED” in line 17 down through “COMMIT” in line 19; in line 20, strike the third bracket; strike beginning with the bracket in line 21 down through “COMMIT” in line 23; in line 21, after “under” insert “§ 8-201 OR”; strike beginning with “THE” in line 28 down through “2.” in line 31 and substitute “A COURT HAS GRANTED A PETITION FOR RELIEF UNDER § 8-201 OR § 8-301 OF THE CRIMINAL PROCEDURE ARTICLE;

**2. IN A RULING ON A PETITION UNDER ITEM 1 OF THIS ITEM THE COURT:**

**A. SETS ASIDE THE VERDICT OR CONVICTION; OR**

**B. SCHEDULES THE MATTER FOR TRIAL OR GRANTS A NEW TRIAL;**

**3. THE STATE’S ATTORNEY DECLINED TO PROSECUTE THE PETITIONER;**

4. THE PETITIONER REQUESTS IN WRITING THE STATE'S ATTORNEY TO CERTIFY THAT THE INDIVIDUAL'S CONVICTION WAS IN ERROR;

5. THE STATE'S ATTORNEY HAS FAILED TO ACT ON A REQUEST TO CERTIFY THAT THE INDIVIDUAL'S CONVICTION WAS IN ERROR WITHIN 45 DAYS OF A REQUEST;

6.”;

and strike beginning with “RESULTED” in line 34 down through “RETRIAL” in line 35 and substitute “WAS THE SUBJECT OF A PETITION UNDER ITEM 1 OF THIS ITEM”.

On page 5, in line 1, strike “3.” and substitute “7.”; in line 4, strike “(1)(III)3” and substitute “(1)(III)7”; and strike beginning with “INCLUDE” in line 6 down through “PLEA” in line 7 and substitute “INCLUDE:”

(I) MAKING A FALSE CONFESSION; OR

(II) ENTERING:

1. A GUILTY PLEA;

2. AN ALFORD PLEA; OR

3. A NOT GUILTY PLEA PURSUANT TO AN AGREED STATEMENT OF FACTS.

**(3) THE FOLLOWING SHALL BE PARTIES TO A PROCEEDING UNDER THIS SUBSECTION:**

**(I) THE STATE’S ATTORNEY OF THE COUNTY WHERE THE CRIME WAS COMMITTED; AND**

**(II) THE STATE**”.

**AMENDMENT NO. 4**

On page 6, in line 3, after “FEES” insert “**AND EXPENSES**”; in line 14, after “section” insert “**IN A LUMP SUM OR INSTALLMENTS WITH AN INITIAL PAYMENT OF \$50,000 TO BE PAID**”; in the same line, strike “60” and substitute “**90**”; in lines 15 and 16, strike “in a lump sum or in installments”; in line 25, after “(F)” insert “**(1)**”; and in lines 27, 28, and 29, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “**(I)**”, “**(II)**”, and “**(III)**”, respectively.

On page 7, in line 1, strike “(4)” and substitute “**(IV)**”; after line 1, insert:

**“(2) (I) A PERSON PROVIDING SERVICES UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION MAY NOT CHARGE, DEMAND, RECEIVE, OR COLLECT PAYMENT OTHER THAN THAT ALLOWED UNDER SUBSECTION (D)(1)(II) OF THIS SECTION.**

**(II) AN OBLIGATION INCURRED IN VIOLATION OF THIS PARAGRAPH IS VOID.**”;

in line 6, after “HEARINGS” insert “**, IN CONSULTATION WITH THE BOARD OF PUBLIC WORKS,**”; in lines 12 and 15, in each instance, after “OR” insert “**JUVENILE**”; in line 20, strike “60” and substitute “**90**”; and in line 21, strike “INDIVIDUAL” and substitute “**COURT**”.

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On page 8, in line 9, strike “1987” and substitute “1984”; and in line 10, strike “2020” and substitute “2019”.