

# **MAINE STATE LEGISLATURE**

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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**Legislative Document**

**No. 54**

H.P. 20

House of Representatives, January 13, 2021

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**An Act To Amend the Laws Governing Post-conviction Review in  
Order To Facilitate the Fair Hearing of All Newly Discovered  
Evidence**

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Received by the Clerk of the House on January 11, 2021. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*R. B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative EVANGELOS of Friendship.  
Cosponsored by Senator MIRAMANT of Knox and  
Representatives: HARNETT of Gardiner, PLUECKER of Warren, TALBOT ROSS of  
Portland, WARREN of Hallowell, Senators: BAILEY of York, CARNEY of Cumberland.

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 15 MRSA §2128-B, sub-§1**, as enacted by PL 2011, c. 601, §11, is amended to read:

**1. Filing deadline for direct impediment.** A Except as provided in subsection 1-A, a one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 1 or 1-A. The limitation period runs from the latest later of the following:

- A. The date of final disposition of the direct appeal from the underlying criminal judgment or the expiration of the time for seeking the appeal; and
  - B. The date on which the constitutional right, state or federal, asserted was initially recognized by the Law Court or the Supreme Court of the United States if the right has been newly recognized by that highest court and made retroactively applicable to cases on collateral review; or
  - C. The date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

The time during which a properly filed petition for writ of certiorari to the Supreme Court of the United States with respect to the same criminal judgment is pending is not counted toward any period of limitation under this subsection.

**Sec. 2. 15 MRSA §2128-B, sub-§1-A** is enacted to read:

**1-A. No filing deadline for direct impediment if newly discovered evidence.** If the factual predicate of a claim is based on newly discovered evidence, then the claim may be filed at any time regardless of when the newly discovered evidence could have been obtained or discovered through the exercise of due diligence. The court may require the petitioner to provide additional information about the nature of the newly discovered evidence. The fact that a petition initiated pursuant to subsection 1, former paragraph C was dismissed as untimely filed or for the failure to exercise due diligence does not preclude the initiation of a petition for review under this subsection based on the same or different newly discovered evidence.

## SUMMARY

This bill provides that there is no deadline for filing a petition for post-conviction review based on newly discovered evidence. The court may require the petitioner to provide additional information about the nature of the newly discovered evidence.

This bill ensures that a person may seek post-conviction review on the basis of newly discovered evidence even if the person had filed for review and the petition was dismissed because it was untimely filed or because the evidence was not discovered earlier because of the lack of due diligence.