

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 54

H.P. 20

House of Representatives, January 13, 2021

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

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.

A handwritten signature in cursive script that reads "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.

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

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

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

8 A. The date of final disposition of the direct appeal from the underlying criminal
9 judgment or the expiration of the time for seeking the appeal; and

10 B. The date on which the constitutional right, state or federal, asserted was initially
11 recognized by the Law Court or the Supreme Court of the United States if the right has
12 been newly recognized by that highest court and made retroactively applicable to cases
13 on collateral review; ~~or,~~

14 ~~C. The date on which the factual predicate of the claim or claims presented could have~~
15 ~~been discovered through the exercise of due diligence.~~

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

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

20 **1-A. No filing deadline for direct impediment if newly discovered evidence.** If the
21 factual predicate of a claim is based on newly discovered evidence, then the claim may be
22 filed at any time regardless of when the newly discovered evidence could have been
23 obtained or discovered through the exercise of due diligence. The court may require the
24 petitioner to provide additional information about the nature of the newly discovered
25 evidence. The fact that a petition initiated pursuant to subsection 1, former paragraph C
26 was dismissed as untimely filed or for the failure to exercise due diligence does not
27 preclude the initiation of a petition for review under this subsection based on the same or
28 different newly discovered evidence.

29 **SUMMARY**

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

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