

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 122-1 as follows:

6 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

7 Sec. 122-1. Petition in the trial court.

8 (a) Any person imprisoned in the penitentiary may
9 institute a proceeding under this Article if the person
10 asserts that:

11 (1) in the proceedings which resulted in his or her
12 conviction there was a substantial denial of his or her
13 rights under the Constitution of the United States or of
14 the State of Illinois or both;

15 (2) (blank); or

16 (3) (blank).

17 (a-5) A proceeding under paragraph (2) of subsection (a)
18 may be commenced within a reasonable period of time after the
19 person's conviction notwithstanding any other provisions of
20 this Article. In such a proceeding regarding actual innocence,
21 if the court determines the petition is frivolous or is
22 patently without merit, it shall dismiss the petition in a
23 written order, specifying the findings of fact and conclusions

1 of law it made in reaching its decision. Such order of
2 dismissal is a final judgment and shall be served upon the
3 petitioner by certified mail within 10 days of its entry.

4 (b) The proceeding shall be commenced by filing with the
5 clerk of the court in which the conviction took place a
6 petition (together with a copy thereof) verified by affidavit.
7 Petitioner shall also serve another copy upon the State's
8 Attorney by any of the methods provided in Rule 7 of the
9 Supreme Court. The clerk shall docket the petition for
10 consideration by the court pursuant to Section 122-2.1 upon
11 his or her receipt thereof and bring the same promptly to the
12 attention of the court.

13 (c) No proceedings under this Article shall be commenced
14 more than 6 months after the conclusion of proceedings in the
15 United States Supreme Court, unless the petitioner alleges
16 facts showing that the delay was not due to his or her culpable
17 negligence. If a petition for certiorari is not filed, no
18 proceedings under this Article shall be commenced more than 6
19 months from the date for filing a certiorari petition, unless
20 the petitioner alleges facts showing that the delay was not
21 due to his or her culpable negligence. If a defendant does not
22 file a direct appeal, the post-conviction petition shall be
23 filed no later than 3 years from the date of conviction, unless
24 the petitioner alleges facts showing that the delay was not
25 due to his or her culpable negligence.

26 This limitation does not apply to a petition advancing a

1 claim of actual innocence.

2 (d) A person seeking relief by filing a petition under
3 this Section must specify in the petition or its heading that
4 it is filed under this Section. A trial court that has received
5 a petition complaining of a conviction or sentence that fails
6 to specify in the petition or its heading that it is filed
7 under this Section need not evaluate the petition to determine
8 whether it could otherwise have stated some grounds for relief
9 under this Article.

10 (e) (Blank).

11 (f) Only one petition may be filed by a petitioner under
12 this Article without leave of the court. Leave of court may be
13 granted only if a petitioner demonstrates cause for his or her
14 failure to bring the claim in his or her initial
15 post-conviction proceedings and prejudice results from that
16 failure. For purposes of this subsection (f): (1) a prisoner
17 shows cause by identifying an objective factor that impeded
18 his or her ability to raise a specific claim during his or her
19 initial post-conviction proceedings; and (2) a prisoner shows
20 prejudice by demonstrating that the claim not raised during
21 his or her initial post-conviction proceedings so infected the
22 trial that the resulting conviction or sentence violated due
23 process.

24 (g) A petitioner who was convicted of a felony offense
25 committed when that person was under 21 years of age who seeks
26 leave to file a successive post-conviction petition claiming

1 that his or her sentence violates Section 11 of Article I of
2 the Illinois Constitution does not have to demonstrate cause
3 as set forth in subsection (f) of this Section.

4 (Source: P.A. 102-639, eff. 8-27-21; 103-51, eff. 1-1-24.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.