

1 AN ACT in relation to 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 122-2.1 as follows:

6 (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

7 Sec. 122-2.1. (a) Within 90 days after the filing and  
8 docketing of each petition, the court shall examine such  
9 petition and enter an order thereon pursuant to this Section.

10 (1) If the petitioner is under sentence of death  
11 and is without counsel and alleges that he is without  
12 means to procure counsel, he shall state whether or not  
13 he wishes counsel to be appointed to represent him. If  
14 appointment of counsel is so requested, the court shall  
15 appoint counsel if satisfied that the petitioner has no  
16 means to procure counsel.

17 (2) If the petitioner is sentenced to imprisonment  
18 and the court determines the petition is frivolous or is  
19 patently without merit or that the petitioner failed to  
20 file the petition within the time limits prescribed in  
21 subsection (c) of Section 122-1 and the delay was due to  
22 the petitioner's culpable negligence, it shall dismiss  
23 the petition in a written order, specifying the findings  
24 of fact and conclusions of law it made in reaching its  
25 decision. Such order of dismissal is a final judgment  
26 and shall be served upon the petitioner by certified mail  
27 within 10 days of its entry. If the court determines that  
28 the petitioner's failure to timely file his or her  
29 petition was due to the petitioner's culpable negligence,  
30 the petitioner may seek reconsideration within 30 days in  
31 order to present facts showing why the late filing was

1           not due to his or her culpable negligence.

2           (b) If the petition is not dismissed pursuant to this  
3 Section, the court shall order the petition to be docketed  
4 for further consideration in accordance with Sections 122-4  
5 through 122-6.

6           (c) In considering a petition pursuant to this Section,  
7 the court may examine the court file of the proceeding in  
8 which the petitioner was convicted, any action taken by an  
9 appellate court in such proceeding and any transcripts of  
10 such proceeding.

11           (Source: P.A. 86-655; 87-904.)