2024 Second Extraordinary Session

HOUSE BILL NO. 4

BY REPRESENTATIVES EMERSON AND MIKE JOHNSON

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Articles 930.4(F) and (G) and
3	930.8(A)(1) and (D) and to enact Code of Criminal Procedure Article 930.8(E),
4	relative to procedures utilized in post conviction proceedings; to provide relative to
5	the timeliness of post conviction applications; to provide relative to the procedural
6	requirements of post conviction applications; to provide relative to the exceptions to
7	the time limitations of post conviction applications; and to provide for related
8	matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. Code of Criminal Procedure Articles 930.4(F) and (G) and 930.8(A)(1)
11	and (D) are hereby amended and reenacted and Code of Criminal Procedure Article 930.8(E)
12	is hereby enacted to read as follows:
13	Art. 930.4. Repetitive applications
14	* * *
15	F. If the court considers dismissing an application for failure of the petitioner
16	to raise the claim in the proceedings leading to conviction, failure to urge the claim
17	on appeal, or failure to include the claim in a prior application, the court shall order
18	the petitioner to state reasons for his failure. If the court finds that the failure was
19	excusable, it shall consider the merits of the claim. Any attempt or request by a
20	petitioner to supplement or amend the application shall be subject to all of the
21	limitations and restrictions set forth in this Article. In addition to serving the district
22	attorney for the jurisdiction where the underlying conviction was obtained, any
23	application filed after the first application for post conviction relief shall be served

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1	on the district attorney and the attorney general at least sixty days in advance of the
2	hearing on the application. Both the district attorney and the attorney general shall
3	have a right to suspensively appeal any order granting relief.
4	G. Notwithstanding any provision of this Title to the contrary, the state may
5	affirmatively waive any procedural objection pursuant to this Article. Such waiver
6	shall be express and in writing and filed by the state into the district court record.
7	All of the limitations set forth in this Article shall be jurisdictional and shall not be
8	waived or excused by the court or the district attorney.
9	* * *
10	Art. 930.8. Time limitations; exceptions; prejudicial delay
11	A. No application for post conviction relief, including applications which
12	seek an out-of-time appeal, shall be considered if it is filed more than two years after
13	the judgment of conviction and sentence has become final under the provisions of
14	Article 914 or 922, unless any of the following apply:
15	(1) The application alleges, and the petitioner proves or the state admits, that
16	the facts upon which the claim is predicated were not known to the petitioner or his
17	prior attorneys. Further, the petitioner shall prove that he exercised diligence in
18	attempting to discover any post conviction claims that may exist. "Diligence" for the
19	purposes of this Article is a subjective inquiry that shall take into account the
20	circumstances of the petitioner. Those circumstances shall include but are not
21	limited to the educational background of the petitioner, the petitioner's access to
22	formally trained inmate counsel, the financial resources of the petitioner, the age of
23	the petitioner, the mental abilities of the petitioner, or whether the interests of justice
24	will be served by the consideration of new evidence. New facts discovered pursuant
25	to this exception shall be submitted to the court within two years of discovery. If the
26	petitioner pled guilty or nolo contendere to the offense of conviction and is seeking
27	relief pursuant to Article 926.2 and five years or more have elapsed since the
28	petitioner pled guilty or nolo contendere to the offense of conviction, he shall not be
29	eligible for the exception provided for by this Subparagraph.
30	* * *

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1	D. Notwithstanding any provision of this Title to the contrary, the state may
2	affirmatively waive any objection to the timeliness under Paragraph A of this Article
3	of the application for post conviction relief filed by the petitioner. Such waiver shall
4	be express and in writing and filed by the state into the district court record. Any
5	attempt or request by a petitioner to supplement or amend the application shall be
6	subject to all of the limitations and restrictions as set forth in this Article.
7	E. All of the limitations set forth in this Article shall be jurisdictional and
8	shall not be waived or excused by the court or the district attorney.
9	Section 2. This Act shall become effective on August 1, 2024; if vetoed by the
10	governor and subsequently approved by the legislature, this Act shall become effective on
11	the day following such approval by the legislature or August 1, 2024, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____