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## DIGEST

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HB 61 Original

2018 Regular Session

Dwight

**Abstract:** Provides relative to the time period within which a person who is sentenced to death may file an application for post-conviction relief and requires that certain information be included in such applications.

Present law authorizes a person who is in custody after being sentenced for conviction of an offense to file a petition seeking to have the conviction and sentence set aside only on the following grounds:

- (1) The conviction was obtained in violation of the U.S. or La. Const.
- (2) The court exceeded its jurisdiction.
- (3) The conviction or sentence subjected him to double jeopardy.
- (4) The limitations on the institution of prosecution had expired.
- (5) The statute creating the offense for which he was convicted and sentenced is unconstitutional.
- (6) The conviction or sentence constitute the ex post facto application of law in violation of the U.S. or La. Const.
- (7) The results of DNA testing proves by clear and convincing evidence that the petitioner is factually innocent of the crime for which he was convicted.

Present law requires post-conviction relief applications to be filed within two years after the date on which the judgment of conviction and sentence has become final, unless certain conditions apply including the condition that the person asserting the claim has been sentenced to death.

Proposed law retains present law but provides that an application for post-conviction relief filed by a person who has been sentenced to death cannot be filed more than three years after the judgment of conviction and sentence has become final.

Proposed law also provides that the application for post-conviction relief filed by a person who has been sentenced to death must include all substantive claims. Further provides that if the application was filed prior to Aug. 1, 2018, the petitioner shall amend the application to include all substantive claims within 180 days of Aug. 1, 2018.

(Amends C.Cr.P. Art. 930.8(A)(4))