

2022 Regular Session

HOUSE BILL NO. 271

BY REPRESENTATIVE HUGHES

CRIMINAL/PROCEDURE: Provides relative to post conviction relief for non-unanimous jury verdicts

1 AN ACT

2 To enact Code of Criminal Procedure Articles 930.3(9), 930.4(H), and 930.8(A)(7) and (E),
3 relative to post conviction relief; to provide relative to the grounds for post
4 conviction relief; to provide relative to repetitive applications if received by a certain
5 date; to provide relative to time periods for non-unanimous jury applications for post
6 conviction relief; to provide relative to duties of district attorneys when post
7 conviction relief applications are filed for non-unanimous jury verdicts; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Articles 930.3(9), 930.4(H), and 930.8(A)(7)
11 and (E) are hereby amended and reenacted to read as follows:

12 Art. 930.3. Grounds

13 If the petitioner is in custody after sentence for conviction for an offense,
14 relief shall be granted only on the following grounds:

15 * * *

16 (9) The conviction was rendered by a verdict from a non-unanimous jury.

17 * * *

18 Art. 930.4. Repetitive applications

19 * * *

1 H. Notwithstanding any provision of this Title to the contrary, an application
2 is not successive if it is filed prior to December 31, 2023.

3 * * *

4 Art. 930.8. Time limitations; exceptions; prejudicial delay

5 A. No application for post conviction relief, including applications which
6 seek an out-of-time appeal, shall be considered if it is filed more than two years after
7 the judgment of conviction and sentence has become final under the provisions of
8 Article 914 or 922, unless any of the following apply:

9 * * *

10 (7) The application alleges, and the petitioner shows, that the conviction was
11 rendered by a verdict from a non-unanimous jury, and the application is filed prior
12 to December 31, 2023.

13 * * *

14 E. Notwithstanding any provision of this Title to the contrary, the district
15 attorney shall ensure that the rights extended to victims pursuant to Article I, Section
16 25 of the Constitution of Louisiana and provided by Chapter 21-B of Title 46 of the
17 Louisiana Revised Statutes of 1950 are honored and protected when receiving an
18 application for post conviction relief for a non-unanimous jury verdict.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 271 Original

2022 Regular Session

Hughes

Abstract: Relative to post conviction relief for non-unanimous jury verdicts, provides for the grounds for relief, repetitive applications, applications filed prior to Dec. 31, 2023, and rights extended to victims.

Present law (C.Cr.P. Art. 930.3) provides that post conviction relief shall be granted only on the following grounds:

- (1) The conviction was obtained in violation of the U.S. or La. constitution.
- (2) The court exceeded its jurisdiction.
- (3) The conviction or sentence subjected the petitioner to double jeopardy.

- (4) The limitations on the institution of prosecution had expired.
- (5) The statute creating the offense for which the petitioner 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. constitution.
- (7) The results of DNA testing performed pursuant to an application granted under present law (C.Cr.P. Art. 926.1) prove by clear and convincing evidence that the petitioner is factually innocent of the crime for which he was convicted.
- (8) The petitioner is determined by clear and convincing evidence to be factually innocent under present law (C.Cr.P. Art. 926.2).

Proposed law retains the present law grounds for post conviction relief and adds an additional ground for convictions rendered by a verdict from a non-unanimous jury.

Present law (C.Cr.P. Art. 930.4) provides relative to repetitive applications for post conviction relief. Provides that a successive application shall be dismissed if it raises a new or different claim that was inexcusably omitted from a prior application.

Proposed law provides that an application is not successive if it is filed prior to Dec. 31, 2023.

Present law (C.Cr.P. Art. 930.8) provides that no application for post conviction relief shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of present law (C.Cr.P. Arts. 914 and 922) unless certain present law exceptions apply.

Proposed law retains present law and adds an additional exception which provides that the application alleges, and the petitioner shows, that the conviction was rendered by a verdict from a non-unanimous jury, and the application is filed prior to Dec. 31, 2023.

Proposed law also provides that the district attorney shall ensure that the rights extended to victims pursuant to present constitution (Const. Art. I, §25) and provided by present law (Chapter 21-B of Title 46 of the La. Revised Statutes of 1950) are honored and protected when receiving an application for post-conviction relief for a non-unanimous jury verdict.

(Adds C.Cr.P. Arts. 930.3(9), 930.4(H), and 930.8(A)(7) and (E))