

## RÉSUMÉ DIGEST

**ACT 10 (HB 4)**

**2024 Second Extraordinary Session**

**Emerson**

Existing law (C.Cr.P. Art. 930.4) generally provides for the procedures governing repetitive applications for post conviction relief.

Prior law (C.Cr.P. Art. 930.4(F)) provided that if the court considered dismissing an application for failure of the petitioner to raise the claim in the proceedings leading to conviction, failure to urge the claim on appeal, or failure to include the claim in a prior application, the court was required to order the petitioner to state reasons for his failure. Further provided that if the court found that the failure was excusable, the court was required to consider the merits of the claim.

New law removes this provision of prior law and provides that any attempt or request by a petitioner to supplement or amend the application shall be subject to all of the limitations and restrictions set forth in new law.

New law provides that in addition to serving the district attorney for the jurisdiction where the underlying conviction was obtained, any application filed after the first application for post conviction relief shall be served on the district attorney and the attorney general at least 60 days in advance of the hearing on the application. Further provides that both the district attorney and the attorney general shall have a right to suspensively appeal any order granting relief.

Prior law (C.Cr.P. Art. 930.4(G)) authorized the state to affirmatively waive any procedural objection pursuant to existing law (C.Cr.P. Art. 930.4). Further required such waiver to be express and in writing and filed by the state into the district court record.

New law removes this provision of prior law and provides that all of the limitations set forth in existing law (C.Cr.P. Art. 930.4) shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

Existing law (C.Cr.P. Art. 930.8) generally provides for time limitations for post conviction relief applications and for exceptions to these time limitations.

Existing law (C.Cr.P. Art. 930.8(A)) provides for circumstances where an application for post conviction relief shall be considered even if it is filed more than two years after the judgment of conviction and sentence have become final under the provisions of existing law (C.Cr.P. Arts. 914 or 922).

Prior law (C.Cr.P. Art. 930.8(D)) authorized the state to affirmatively waive any procedural objection pursuant to existing law (C.Cr.P. Art. 930.8(A)). Further required such waiver to be express and in writing and filed by the state into the district court record.

New law removes this provision of prior law and provides that any attempt or request by a petitioner to supplement or amend the application shall be subject to all of the limitations and restrictions as set forth in existing law (C.Cr.P. Art. 930.8).

New law (C.Cr.P. Art. 930.8(E)) provides that all of the limitations set forth in existing law (C.Cr.P. Art. 930.8) shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

Effective August 1, 2024.

(Amends C.Cr.P. Arts. 930.4(F) and (G) and 930.8(D); Adds C.Cr.P. Art. 930.8(E))