

2025 Regular Session

# ACT No. 393

HOUSE BILL NO. 675 (Substitute for House Bill No. 572 by Representative Glorioso)

BY REPRESENTATIVES GLORIOSO, BACALA, CARRIER, COATES, COX, CREWS,  
DICKERSON, EDMONSTON, EMERSON, FIRMENT, HORTON, MIKE  
JOHNSON, MCMAKIN, SCHLEGEL, VILLIO, AND WILDER

## AN ACT

To amend and reenact Code of Criminal Procedure Articles 926(B) and (E), 926.2(A) and (B)(2) and (3)(introductory paragraph), 927, 930(A) and (C), 930.2, 930.4(article heading), (A), and (D) through (G), 930.5, 930.6(B), 930.8(A)(introductory paragraph) and (2) through (4) and (B) through (E) and R.S. 15:178, to enact Code of Criminal Procedure Articles 924(5) and (6), 926(F) and (G), 926.4, 927.1, 930.4(H), 930.8(F), 930.11, and R.S. 15:169(C), and to repeal Code of Criminal Procedure Articles 928, 930.6(C), and 930.10, relative to post conviction relief; to provide for procedures; to provide for definitions; to provide for appeals; to provide for applications; to provide for motions; to provide for summary disposition; to provide for judgments; to provide for grounds for relief; to provide relative to claims; to provide for duties of the court, district attorney, attorney general, and petitioner; to provide for time periods; to provide relative to time limitations; to provide for burden of proof; to provide relative to a writ of mandamus; to provide for the appointment of counsel in certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 926(B) and (E), 926.2(A) and (B)(2) and (3)(introductory paragraph), 927, 930(A) and (C), 930.2, 930.4(article heading), (A), and (D) through (G), 930.5, 930.6(B), 930.8(A)(introductory paragraph) and (2) through (4) and (B) through (E) are hereby amended and reenacted and Code of Criminal Procedure Articles

924(5) and (6), 926(F) and (G), 926.4, 927.1, 930.4(H), 930.8(F), and 930.11 are hereby enacted to read as follows:

Art. 924. Definitions

As used in this Title:

\* \* \*

(5) "Post conviction relief" means a procedure that allows an individual who has been convicted of a crime in this state to challenge the legality of his confinement. It is a form of post conviction habeas corpus and is a collateral action to test the detention of a criminal defendant after his sentence and conviction have become final.

(6) "Shell petition" means a petition that does not contain fully briefed claims for relief.

\* \* \*

Art. 926. Petition

\* \* \*

B. The petition shall allege all of the following:

(1) The name of the person in custody and the place of custody, if known, or if not known, a statement to that effect;

(2) That the person is actually in custody, and the name of the place of custody, if known.

~~(2)~~ (3) The name of the custodian, if known, or if not known, a designation or description of him as far as possible;

~~(3)~~ (4) A statement of the grounds upon which relief is sought, alleged in good faith and specifying with reasonable particularity the factual basis for such relief;

~~(4)~~ (5) A statement of all prior applications for writs of habeas corpus or for post conviction relief filed by or on behalf of the person in custody in connection with his present custody; ~~and~~

~~(5)~~ (6) All errors known or discoverable by the exercise of due diligence.

\* \* \*

E. The petition and any successive petitions shall be served upon both the attorney general and the district attorney for the parish where the defendant was convicted.

F.(1) An individual shall be eligible for post conviction relief if he meets both of the following:

(a) He is currently serving a sentence of imprisonment or is on probation or parole pursuant to a conviction.

(b) He is in actual custody or under supervision of the division of probation  
and parole.

(2) An application for post conviction relief filed after the petitioner has  
completed his sentence shall be dismissed.

(3) Any claim alleged in an application that is procedurally barred or is  
frivolous on its face shall be dismissed.

~~E. G. Inexcusable failure of the petitioner to comply with the provisions of~~

~~this Article may be a basis for dismissal of his application.~~

\* \* \*

### Art. 926.2. Factual innocence

A. A petitioner who has been convicted of an offense may seek post conviction relief on the grounds that he is factually innocent of the offense for which he was convicted. A petitioner's first claim of factual innocence pursuant to this Article that would otherwise be barred from review on the merits by the time limitation provided in Article 930.8 or the procedural objections provided in Article 930.4 shall not be barred if the claim is contained in an application for post conviction relief filed on or before December 31, 2022, and if the petitioner was convicted after a trial completed to verdict. This exception to Articles 930.4 and 930.8 shall apply only to the claim of factual innocence brought under this Article and shall not apply to any other claims raised by the petitioner. An application for post conviction relief filed pursuant to this Article by a petitioner who pled guilty before August 1, 2025, or nolo contendere to the offense of conviction or filed by any petitioner after December 31, 2022, shall be subject to Articles 930.4 and 930.8.

1        A petitioner who pled guilty to the offense of conviction on or after August 1, 2025,  
2        shall not be entitled to assert a claim of factual innocence.

3                    B.

4                                    \*           \*           \*

5                    (2) A recantation of prior sworn testimony may be considered if corroborated  
6                    by the evidence required by Subsubparagraph (1)(a) of this Paragraph. However, a  
7                    recantation of prior sworn testimony cannot form the sole basis for relief pursuant  
8                    to this Article, and shall not be sufficient to overcome the presumption of a valid  
9                    conviction.

10                    (3) If the petitioner pled guilty before August 1, 2025, or nolo contendere to  
11                    the offense of conviction, in addition to satisfying all of the criteria in this Paragraph  
12                    and in any other applicable provision of law, the petitioner shall show both of the  
13                    following to prove entitlement to relief:

14                                    \*           \*           \*

15        Art. 926.4. Privilege waiver

16                    By raising any claim of ineffective assistance of counsel, the defendant  
17                    waives the attorney-client privilege as to any information necessary to allow the state  
18                    to rebut the claim.

19        ~~Art. 927. Procedural~~ Action required after filing of application; procedural  
20                    objections; answer

21                    A.(1) The court shall conduct a preliminary review of all petitions for post  
22                    conviction relief for compliance with the limitations for relief established in this  
23                    Chapter. In conducting its review of the application, the court shall consider, among  
24                    other things, all of the following:

25                    (a) Whether the petitioner was in custody at the time the application for  
26                    post-conviction relief was filed.

27                    (b) Whether the application is timely pursuant to Article 930.8.

28                    (c) Whether the application states adequate factual or legal grounds for  
29                    relief.

1                   (d) Whether the application states legal grounds for relief that are not  
2                   meritorious.

3                   (e) Whether the application states factual grounds which, if established, do  
4                   not entitle the petitioner to relief.

5                   (f) Whether the application states factual grounds that, if true, entitle the  
6                   petitioner to relief but are so contradicted by the court record that the court is  
7                   satisfied that the factual allegations are untrue.

8                   (g) Whether each claim in the application is procedurally barred or frivolous  
9                   on its face.

10                  (2) If it is evident from the petition and any attached exhibits that the  
11                  petitioner is not entitled to relief, the court shall dismiss the application. If the  
12                  application is not dismissed, the judge shall order an answer pursuant to Paragraph  
13                  B of this Article. The fact that the court has not dismissed the application upon  
14                  preliminary review shall not preclude the district attorney or the attorney general  
15                  from subsequently raising objections on any of the grounds listed in Subparagraph  
16                  (1) of this Paragraph or any other grounds provided by law.

17                  A. B. If an application alleges a claim which, if established, would entitle the  
18                  petitioner to relief is not dismissed pursuant to Paragraph A of this Article, the court  
19                  shall order the custodian, through the district attorney in the parish in which the  
20                  defendant was convicted, to file any procedural objections he may have, or an  
21                  answer on the merits if there are no procedural objections, within a specified period  
22                  not in excess of thirty sixty days. If the district attorney waives or does not file  
23                  procedural objections, the response shall be provided to the attorney general  
24                  concurrent with filing. The court's order shall include a copy of the application for  
25                  post conviction relief and the attorney general shall have thirty days to file  
26                  objections. If procedural objections are timely filed by the district attorney or the  
27                  attorney general, no answer on the merits of the claim nor any hearing on the merits  
28                  may shall be ordered until such objections have been considered and rulings thereon  
29                  have become final.

1           ~~B. C.~~ In any order of the court requiring a response by the district attorney  
2           or attorney general pursuant to this Article, the court shall render specific rulings  
3           dismissing any claim which, if established as alleged, would not entitle the petitioner  
4           to relief, and shall order a response only as to such claim or claims which, if  
5           established as alleged, would entitle the petitioner to relief.

6           ~~C. D.~~ If the court orders an answer filed, the court need not order production  
7           of the petitioner except as provided in Article 930.

8           E. Subject to the provisions of Article 930.4(F), if the application is  
9           successive or supplemental to a previous application, the court shall send notice to  
10          the attorney general.

11          F. If the court has determined that the application cannot be summarily  
12          dismissed, the court shall determine after an answer is filed whether an evidentiary  
13          hearing is necessary and shall set a status conference within sixty days.

14          Art. 927.1. Abandonment of application

15          A. After filing an application for post conviction relief, the petitioner is  
16          responsible for seeking a ruling on his application and pursuing his claims. Failure  
17          to actively seek a ruling on an application for post conviction relief after it has been  
18          filed shall constitute abandonment of the application, resulting in the dismissal of the  
19          application.

20          B. An application for post conviction relief shall be deemed to be abandoned  
21          when the petitioner fails to file any pleading in furtherance of disposition of the  
22          application for a period of two years following the filing of the application,  
23          irrespective of the stage of the proceedings.

24          C. This Article shall be operative without a formal order when an  
25          abandonment of an application pursuant to Paragraph B has occurred. On ex parte  
26          motion of the district attorney or the attorney general, accompanied by an affidavit  
27          that states that action has not been timely taken, the court shall enter a formal order  
28          of dismissal as of the date of the application's abandonment.

29          D. If the petitioner has a shell petition pending as of July 1, 2025, he shall  
30          submit a fully-briefed petition to the court no later than July 1, 2026, unless a shorter

1 period of time has been established by the court. Any application for post conviction  
2 relief filed before July 1, 2023, shall be dismissed, set for a hearing, or otherwise  
3 adjudicated no later than July 1, 2026, unless the court has good cause to establish  
4 a later date, provided however that the claims shall be fully adjudicated no later than  
5 January 1, 2027. The district attorney or the attorney general shall have a right to  
6 seek mandamus to enforce this Paragraph.

7 E. For the purposes of this Article, "pleading in furtherance of disposition  
8 of the application" means a filing that seeks the trial court's ruling on the merits of  
9 the application or a claim asserted therein, such as a motion to set the case on the  
10 docket, a motion seeking an order, or an application for writ of mandamus seeking  
11 a ruling on the application.

12 \* \* \*

13 Art. 930. Evidentiary hearing

14 A. An evidentiary hearing for the taking of testimony or other evidence shall  
15 be ordered within the time period provided in Article 930.11 whenever there are  
16 questions of fact which cannot properly be resolved pursuant to Articles 928 and  
17 929. The petitioner, in absence of an express waiver, is entitled to be present at such  
18 hearing, unless the only evidence to be received is evidence as permitted pursuant  
19 to ~~Subsection~~ Paragraph B of this Section Article, and the petitioner has been or will  
20 be provided with copies of such evidence and an opportunity to respond thereto in  
21 writing.

22 \* \* \*

23 C. No evidentiary hearing on the merits of a claim shall be ordered or  
24 conducted, nor shall any proffer of evidence be received over the objection of the  
25 respondent, and no ruling upon procedural objections to the petition shall purport to  
26 address the merits of the claim over the objection of the respondent, unless the court  
27 has first ruled upon all procedural objections raised by the respondent within the time  
28 period provided in Article 930.11, and such rulings have become final. Any  
29 language in a ruling on procedural objections raised by the respondent which

1           purports to address the merits of the claim shall be deemed as null, void, and of no  
2           effect.

3   \*           \*           \*

4           Art. 930.2. Burden of proof

5                   The petitioner in an application for post conviction relief shall have the  
6           burden of proving that relief should be granted. The state has no burden of proof in  
7           a post conviction relief proceeding.

8   \*           \*           \*

9           Art. 930.4. ~~Repetitive~~ Jurisdictional bars to relief; repetitive applications

10                   A. ~~Unless required in the interest of justice, any~~ Any claim for relief which  
11           was fully litigated in an appeal from the proceedings leading to the judgment of  
12           conviction and sentence shall not be considered.

13   \*           \*           \*

14                   D. If the application alleges a claim seeking to apply a new rule of criminal  
15           procedure that has been held by the United States Supreme Court and the Louisiana  
16           Supreme Court to be non-retroactive, the court shall deny relief.

17                   E. A successive application shall be dismissed if it fails to raise a new or  
18           different claim.

19                   ~~E.~~ F. A successive application shall be dismissed if it raises a new or  
20           different claim that was inexcusably omitted from a prior application.

21                   ~~F.~~ G. Any attempt or request by a petitioner to supplement or amend the  
22           application shall be subject to all of the limitations and restrictions set forth in this  
23           Article. In addition to serving the district attorney for the jurisdiction where the  
24           underlying conviction was obtained, any subsequent, successive, amending, or  
25           supplemental application ~~filed after the first application for post conviction relief~~  
26           shall be served by the petitioner on the district attorney and the attorney general. If  
27           the court subsequently orders any hearing on the application, the court shall send  
28           notice to the district attorney and attorney general at least sixty days in advance of  
29           the hearing ~~on the application. Both the district attorney and the attorney general~~  
30           ~~shall have a right to suspensively appeal any order granting relief date.~~



G. H. All of the The limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

## Art. 930.5. Custody pending retrial; bail

A. If a court grants relief under an application for post conviction relief, the court shall order that the petitioner be held in custody pending a new trial if it appears that there are legally sufficient grounds upon which to reprosecute the petitioner.

B. In such a case, the petitioner shall be entitled to bail on the offense as though he has not been convicted of the offense.

## Art. 930.6. Review of trial court judgments

\* \* \*

~~B. If a statute or ordinance is declared unconstitutional, the state may appeal to the supreme court. If relief is granted on any other ground, the state may invoke the supervisory jurisdiction of the court of appeal.~~

~~C. Pending the state's application for writs, or pending the state's appeal, the district court or the court of appeal may stay the judgment granting relief. The district attorney and the attorney general shall have a right to suspensively appeal any order granting post conviction relief.~~

\* \* \*

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

A. No application for post conviction relief, including applications which seek an out-of-time appeal, 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 Article 914 or 922, unless any of the following apply:

\* \* \*

(2)(a) Facts that were known to any attorney for the petitioner shall be presumed to have been known by the petitioner unless the petitioner rebuts this presumption by clear and convincing evidence. Facts that were contained in the record of the court proceedings concerning the conviction challenged in the

1        application shall be deemed to have been known by the petitioner. The provisions of  
2        this Subparagraph are applicable if the petitioner proves both of the following:

3                (i) That the petitioner exercised due diligence in attempting to discover any  
4        post conviction claims or facts upon which any claims may be based.

5                (ii) That exceptional circumstances exist, the interest of justice will be served  
6        by consideration of the claim based upon the previously unknown facts, and the  
7        newly discovered facts in support of the claim are sufficiently compelling that  
8        manifest injustice will result if the claim is not considered.

9                (b) The petitioner shall have the burden of proving the provisions of this  
10       Subsubparagraph by clear and convincing evidence.

11               ~~(2)~~ (3) The claim asserted in the petition is based upon a final ruling of an  
12       appellate court establishing a theretofore unknown interpretation of constitutional  
13       law and petitioner establishes that this interpretation is retroactively applicable to his  
14       case, and the petition is filed within one year of the finality of such ruling.

15               ~~(3)~~ (4) The application would already be barred by the provisions of this  
16       Article, but the application is filed on or before ~~October 1, 2001~~ August 1, 2027, and  
17       the date on which the application was filed is within ~~three~~ two years after the  
18       judgment of conviction and sentence has become final.

19               ~~(4) The person asserting the claim has been sentenced to death.~~

20                                \*           \*           \*

21               B.(1) When the petitioner has been sentenced to death, all appellate review  
22       of post-conviction relief applications, including supervisory review of  
23       post-conviction relief applications, shall be filed directly with the Louisiana Supreme  
24       Court.

25               (2) When an execution warrant has been issued, any application for  
26       post-conviction relief that contains a new claim, pleading, or other legal matter shall  
27       be filed no later than forty-five days prior to the execution date of the petitioner. A  
28       ruling on such application shall be issued no later than twenty-one days prior to the  
29       execution date of the petitioner. The exclusive means of review shall be a writ

application filed directly with the Louisiana Supreme Court within seven days of the ruling on the application.

B: C. An application for post conviction relief which is timely filed, or which is allowed under an exception to the time limitation as set forth in Paragraph A of this Article, shall be dismissed upon a showing by the state of prejudice to its ability to respond to, negate, or rebut the allegations of the petition caused by events not under the control of the state which have transpired since the date of original conviction, if the court finds, after a hearing limited to that issue, that the state's ability to respond to, negate, or rebut such allegations has been materially prejudiced thereby. When the petitioner fails to timely seek a hearing that is allowed by law or fails to pursue claims for a period of two years after filing an application, the delay caused by inaction shall be presumed as prejudicial. The petitioner shall bear the burden of rebutting the presumption of prejudice. A final judgment dismissing an application based upon prejudice shall be a final adjudication of state post conviction claims in the application for purposes of exhaustion of state court remedies and federal habeas corpus proceedings.

¶ D. At the time of sentencing, the trial court shall inform the defendant of the prescriptive period for post-conviction relief either verbally or in writing. If a written waiver of rights form is used during the acceptance of a guilty plea, the notice required by this Paragraph may be included in the written waiver of rights.

~~Ð.~~ E. 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 this Article.

~~E.~~ F. All of the limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

\* \* \*

Art. 930.11. Time delays applicable to this Title; writ of mandamus

A. The court of appropriate jurisdiction shall adhere to the following time  
periods in post conviction proceedings:

1                   (1) The court shall conduct the preliminary review provided in Article 927  
2                   within thirty days of the filing of application.

3                   (2) When ruling on procedural objections that have been filed pursuant to  
4                   Article 927, the court shall issue its ruling within thirty days of receipt of such  
5                   objections.

6                   (3) If the court determines that no evidentiary hearing is necessary, it shall  
7                   issue its ruling on the merits of any remaining claim alleged in the application within  
8                   thirty days of the state's answer on the merits.

9                   (4) When the court determines that there are questions of fact which cannot  
10                  properly be resolved pursuant to Article 929, it shall conduct an evidentiary hearing  
11                  provided in Article 930 within one hundred eighty days of such determination and  
12                  issue a ruling on the merits of any remaining claim within thirty days following the  
13                  conclusion of such hearing.

14                  B. The district attorney and the attorney general shall adhere to the following  
15                  time periods in post conviction proceedings:

16                  (1) The district attorney shall have sixty days to file procedural objections  
17                  pursuant to Article 927.

18                  (2) If an answer is required, the district attorney shall have sixty days from  
19                  the court's ruling on procedural objections to file an answer on the merits pursuant  
20                  to Article 927.

21                  (3) The attorney general shall have thirty days to file procedural objections  
22                  pursuant to Article 927 if the district attorney waives such objections.

23                  C. A petitioner who has been sentenced to death shall only seek supervisory  
24                  review directly from the Louisiana Supreme Court.

25                  D. If a petitioner invokes the supervisory jurisdiction of the Louisiana  
26                  Supreme Court, the supreme court shall rule on an application for a writ of review  
27                  within one hundred eighty days of receipt. If there is an active death warrant, the  
28                  court shall issue a ruling prior to the effective date of that warrant.

29                  E. The state or petitioner shall have the right to seek a writ of mandamus to  
30                  compel a court to issue a requested ruling within a specified period not to exceed

1        thirty days if that court has not issued a ruling within the deadlines provided in this  
2        Chapter. The reviewing court may order the lower court to submit a per curiam  
3        opinion to the reviewing court with an explanation regarding why the lower court has  
4        not issued a ruling within the deadlines provided in this Chapter.

5                F.(1) Upon the motion of either party, any deadline set forth in this Title,  
6        except for the deadline for filing applications for post-conviction relief set forth in  
7        Article 930.8, may be extended by the court subject to the requirements of this  
8        Section.

9                (2) Any motion for an extension of time filed by either party shall be filed not  
10        later than seven days prior to the deadline sought to be extended and shall be served  
11        on all parties and the court by any method allowed by law.

12               (3) Any motion for an extension of time granted by the court pursuant to this  
13        Section shall not exceed sixty days in length, and in no case shall either party be  
14        allowed more than three extensions of time.

15               (4) Each party's first motion for an extension of time may be granted by the  
16        court without a contradictory hearing.

17               (5) After a party's first motion for an extension of time has been granted, any  
18        subsequent motion for an additional extension of time by the same mover shall  
19        require a contradictory hearing. Following the contradictory hearing, the court may  
20        only grant the motion upon a showing by the mover that extraordinary circumstances  
21        outside of the control of the moving party exist that necessitate the requested  
22        extension of time.

23        Section 2. R.S. 15:178 is hereby amended and reenacted and R.S. 15:169(C) is  
24        hereby enacted to read as follows:

25        §169. Representation of capital defendants

26                                \*           \*           \*

27               C. If in any fiscal year the state public defender determines, based on a  
28        review of pending litigation of post-conviction relief applications for capital cases,  
29        that insufficient funds exist to provide counsel for these cases; he may request  
30        supplemental funding, on a case by case basis, from the Joint Legislative Committee

on the Budget be distributed from the Overcollections Fund. The state public defender and the attorney general shall each submit a report to the committee prior to it taking action on a request.

\* \* \*

§178. Appointment of appellate and post-conviction counsel in death penalty case

In a capital case in which the trial counsel was provided to an indigent defendant and in which the jury imposed the death penalty, the court, ~~after~~ within thirty days of the imposition of the sentence of death, shall ~~appoint~~ order the office; ~~which shall promptly cause~~ of the state public defender to have enrolled ~~counsel to~~ represent the defendant on at least one attorney for direct appeal and ~~in any~~ at least one separate attorney for state ~~post-conviction~~ post conviction proceedings, if appropriate.

Section 3. Code of Criminal Procedure Articles 928, 930.6(C), and 930.10 are hereby repealed in their entirety.

Section 4. The Louisiana State Law Institute is hereby authorized and directed to renumber the subparagraphs of Code of Criminal Procedure Article 924 so as to properly place Code of Criminal Procedure Article 924(5) and (6) as enacted by this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_