

Regular Session, 2013

HOUSE BILL NO. 385

BY REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 930.4(B), (C), (D), and (E), and
3 930.8(A)(1), relative to post conviction relief; to provide for a time period to
4 supplement an application for relief; to provide for the mandatory dismissal and
5 denial of relief for certain repetitive applications; to require that the applicant
6 demonstrate diligence in discovering post-conviction claims; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Articles 930.4(B), (C), (D), and (E), and
10 930.8(A)(1) are hereby amended and reenacted to read as follows:

11 Art. 930.4. Repetitive applications

12 * * *

13 B. If the application alleges a claim of which the petitioner had knowledge
14 and inexcusably failed to raise in the proceedings leading to conviction, the court
15 ~~may~~ shall deny relief.

16 C. If the application alleges a claim which the petitioner raised in the trial
17 court and inexcusably failed to pursue on appeal, the court ~~may~~ shall deny relief.

18 D. A successive application ~~may~~ shall be dismissed if it fails to raise a new
19 or different claim.

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

22 * * *

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

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

6 (1) The application alleges, and the petitioner proves or the state admits, that
7 the facts upon which the claim is predicated were not known to the petitioner or his
8 ~~attorney; prior attorneys.~~ Further, the petitioner shall prove that he exercised
9 diligence in attempting to discover any post-conviction claims that may exist.
10 "Diligence" for the purposes of this Article is a subjective inquiry that must take into
11 account the circumstances of the petitioner. Those circumstances shall include but
12 are not limited to the educational background of the petitioner, the petitioner's access
13 to formally trained inmate counsel, the financial resources of the petitioner, the age
14 of the petitioner, the mental abilities of the petitioner, or whether the interests of
15 justice will be served by the consideration of new evidence. New facts discovered
16 pursuant to this exception shall be submitted to the court within two years of
17 discovery.

18 * * *

19 Section 2. The provisions of this Act shall become effective August 1, 2014.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____