

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--PROCEDURE IN PARTICULAR  
ACTIONS -- POST CONVICTION RELIEF

Introduced By: Representatives Craven, and Dawson

Date Introduced: March 01, 2023

Referred To: House Judiciary

(Judiciary)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 10-9.1-1 of the General Laws in Chapter 10-9.1 entitled "Post  
2 Conviction Remedy" is hereby amended to read as follows:

3 **10-9.1-1. Remedy — To whom available — Conditions.**

4 (a) Any person who has been convicted of, or sentenced for, a crime, a violation of law, or  
5 a violation of probationary or deferred sentence status and who claims:

6 (1) That the conviction or the sentence was in violation of the constitution of the United  
7 States or the constitution or laws of this state;

8 (2) That the court was without jurisdiction to impose sentence;

9 (3) That the sentence exceeds the maximum authorized by law, or is otherwise not in  
10 accordance with the sentence authorized by law;

11 (4) That there exists evidence of material facts, not previously presented and heard, that  
12 requires vacation of the conviction or sentence in the interest of justice;

13 (5) That his or her sentence has expired, his or her probation, parole, or conditional release  
14 unlawfully revoked, or he or she is otherwise unlawfully held in custody or other restraint; or

15 (6) That the conviction or sentence is otherwise subject to collateral attack upon any ground  
16 of alleged error heretofore available under any common law, statutory or other writ, motion,  
17 petition, proceeding, or remedy;

18 may institute, without paying a filing fee, a proceeding under this chapter to secure relief.

1 (b) This remedy is not a substitute for nor does it affect any remedy incident to the  
2 proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise  
3 provided in this chapter, it comprehends and takes the place of all other common law, statutory, or  
4 other remedies heretofore available for challenging the validity of the conviction or sentence. It  
5 shall be used exclusively in place of them.

6 (c) A one year statute of limitations shall apply to a motion under this section. The  
7 limitation period shall run from the latest of:

8 (1) The date on which the judgment of conviction becomes final, which shall be the date  
9 of the plea, the date of denial of direct appeal or the expiration of time for filing a direct appeal, or  
10 the date on which the United States Supreme Court denies certiorari or the time for petitioning for  
11 criteria expires;

12 (2) The date on which an impediment to making a motion created by state action in  
13 violation of the United States or Rhode Island constitution or laws of the State of Rhode Island is  
14 removed, if the petitioner was prevented from making a motion by such state action;

15 (3) The date on which the constitutional right asserted was initially recognized by the  
16 United States and/or Rhode Island supreme court, if that right has been newly recognized by these  
17 courts and made retroactively applicable to cases on collateral review; or

18 (4) The date on which the facts supporting the claim or claims presented could have been  
19 discovered through the exercise of due diligence.

20 (d) Subsection (c) of this section shall not apply to a motion for new trial, motion to correct  
21 an illegal sentence, motion to correct a sentence imposed in an illegal manner, motion to reduce  
22 sentence, or motion to terminate probation pursuant to the superior court rules of criminal  
23 procedure.

24 SECTION 2. This act shall take effect upon passage. Upon enactment, any person who is  
25 currently serving a sentence who has not yet filed an action under this section shall have one year  
26 from the date of enactment to file a claim.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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1           This act would amend the post-conviction relief statute to impose a one year statute of  
2 limitations on the filing of a post-conviction relief petitions.

3           This act would take effect upon passage. Upon enactment, any person who is currently  
4 serving a sentence who has not yet filed an action under this section would have one year from the  
5 date of enactment to file a claim.

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