

2020 -- H 7092

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

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

Introduced By: Representatives Knight, Newberry, Shanley, Solomon, and Blazejewski

Date Introduced: January 10, 2020

Referred To: House 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,
5 or 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
14 release unlawfully revoked, or he or she is otherwise unlawfully held in custody or other restraint;

15 ~~or~~

16 (6) That the conviction or sentence is otherwise subject to collateral attack upon any
17 ground of alleged error heretofore available under any common law, statutory or other writ,
18 motion, petition, proceeding, or remedy; ~~may institute, without paying a filing fee, a proceeding~~

1 ~~under this chapter to secure relief; or~~

2 (7) That the conviction was based, in whole or in part, on scientific evidence that has
3 been found or otherwise determined to be discredited by the scientific community; may institute,
4 without paying a filing fee, a proceeding under this chapter to secure relief.

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

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would allow a person who has been convicted on the basis, in whole or in part,
2 on scientific evidence that has been found or otherwise determined to be discredited by the
3 scientific community, eligible to seek post-conviction relief on that ground.

4 This act would take effect upon passage.

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