

HOUSE BILL 1393

E2

7lr2843
CF SB 675

By: **Delegates Dumais, Barron, Hayes, Lewis, Lierman, McCray, A. Miller, Moon, Pena-Melnyk, Rosenberg, and M. Washington**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Petition for Writ of Actual Innocence – Nontrial**
3 **Convictions**

4 FOR the purpose of defining the term “conviction” as it relates to the standard required to
5 file a petition for writ of actual innocence by a person convicted at trial; establishing
6 a standard required to file a petition for writ of actual innocence by a person
7 convicted as a result of a guilty plea, an Alford plea, or a plea of nolo contendere; and
8 generally relating to a petition for writ of actual innocence.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 8–301(a)
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2016 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Criminal Procedure**

17 8–301.

18 (a) **(1) IN THIS SUBSECTION, “CONVICTION” MEANS:**

19 **(I) A FINDING OF GUILTY AS A RESULT OF A TRIAL;**

20 **(II) A PLEA OF GUILTY;**

21 **(III) AN ALFORD PLEA; OR**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(IV) A PLEA OF NOLO CONTENDERE.

(2) A person charged by indictment or criminal information with a crime triable in circuit court and convicted of that crime may, at any time, file a petition for writ of actual innocence in the circuit court for the county in which the conviction was imposed if the person claims that there is newly discovered evidence that:

[(1)] (I) 1. IF THE CONVICTION RESULTED FROM A TRIAL, creates a substantial or significant possibility that the result may have been different, as that standard has been judicially determined; [and] OR

2. IF THE CONVICTION RESULTED FROM A GUILTY PLEA, AN ALFORD PLEA, OR A PLEA OF NOLO CONTENDERE, SUBSTANTIALLY OR SIGNIFICANTLY UNDERMINES THE FACTS SET FORTH BY THE STATE AS THE BASIS OF THE PLEA AGREEMENT; AND

[(2)] (II) could not have been discovered in time to move for a new trial under Maryland Rule 4-331.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.