

HOUSE BILL 1393

E2

7lr2843
CF SB 675

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

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2017

CHAPTER _____

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;
8 requiring that a petition for actual innocence require a sworn affirmation by the
9 petitioner that the petitioner is innocent; and generally relating to a petition for writ
10 of actual innocence.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 8–301(a) and (b)
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2016 Supplement)

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

18 **Article – Criminal Procedure**

19 8–301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

(II) A PLEA OF GUILTY;

(III) AN ALFORD PLEA; OR

(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.

(b) A petition filed under this section shall:

(1) be in writing;

(2) state in detail the grounds on which the petition is based;

(3) describe the newly discovered evidence;

(4) contain or be accompanied by a request for hearing if a hearing is sought;

(5) CONTAIN A SWORN AFFIRMATION BY THE PETITIONER THAT THE PETITIONER IS INNOCENT; and

[(5)] (6) distinguish the newly discovered evidence claimed in the petition from any claims made in prior petitions.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.