

1 AN ACT concerning proceedings in capital cases.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 122-1 as follows:

6 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

7 Sec. 122-1. Petition in the trial court.

8 (a) Any person imprisoned in the penitentiary may
9 institute a proceeding under this Article if the person who
10 asserts:

11 (1) that in the proceedings which resulted in his
12 or her conviction there was a substantial denial of his
13 or her rights under the Constitution of the United States
14 or of the State of Illinois or both; or

15 (2) in a capital case, there is newly discovered
16 evidence not available to the person at the time of the
17 proceeding that resulted in his or her conviction and
18 that evidence establishes the person's innocence.

19 (a-5) A proceeding under paragraph (2) of subsection (a)
20 may be commenced at any time after the person's conviction
21 notwithstanding any other provisions of ~~may--institute-a~~
22 ~~proceeding-under~~ this Article.

23 (b) The proceeding shall be commenced by filing with the
24 clerk of the court in which the conviction took place a
25 petition (together with a copy thereof) verified by
26 affidavit. Petitioner shall also serve another copy upon the
27 State's Attorney by any of the methods provided in Rule 7 of
28 the Supreme Court. The clerk shall docket the petition for
29 consideration by the court pursuant to Section 122-2.1 upon
30 his or her receipt thereof and bring the same promptly to the
31 attention of the court.

1 (c) Except as otherwise provided in subsection (a-5), no
2 proceedings under this Article shall be commenced more than 6
3 months after the denial of a petition for leave to appeal or
4 the date for filing such a petition if none is filed or more
5 than 45 days after the defendant files his or her brief in
6 the appeal of the sentence before the Illinois Supreme Court
7 (or more than 45 days after the deadline for the filing of
8 the defendant's brief with the Illinois Supreme Court if no
9 brief is filed) or 3 years from the date of conviction,
10 whichever is sooner, unless the petitioner alleges facts
11 showing that the delay was not due to his or her culpable
12 negligence.

13 (d) A person seeking relief by filing a petition under
14 this Section must specify in the petition or its heading that
15 it is filed under this Section. A trial court that has
16 received a petition complaining of a conviction or sentence
17 that fails to specify in the petition or its heading that it
18 is filed under this Section need not evaluate the petition to
19 determine whether it could otherwise have stated some grounds
20 for relief under this Article.

21 (e) A proceeding under this Article may not be commenced
22 on behalf of a defendant who has been sentenced to death
23 without the written consent of the defendant, unless the
24 defendant, because of a mental or physical condition, is
25 incapable of asserting his or her own claim.

26 (Source: P.A. 89-284, eff. 1-1-96; 89-609, eff. 1-1-97;
27 89-684, eff. 6-1-97; 90-14, eff. 7-1-97.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.