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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 833

02/08/2021 Authored by Her, Gomez, Hassan, Hollins, Feist and others
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to judiciary; modifying when a court may hear a petition for postconviction
1.3 relief; amending Minnesota Statutes 2020, section 590.01, subdivision 4.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2020, section 590.01, subdivision 4, is amended to read:

1.6 Subd. 4. **Time limit.** (a) No petition for postconviction relief may be filed more than
1.7 two years after the later of:

1.8 (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or

1.9 (2) an appellate court's disposition of petitioner's direct appeal.

1.10 (b) Notwithstanding paragraph (a), a court may hear a petition for postconviction relief
1.11 if:

1.12 (1) the petitioner establishes that a physical disability or mental disease precluded a
1.13 timely assertion of the claim;

1.14 (2) the petitioner alleges the existence of newly discovered evidence, including scientific
1.15 evidence, that could not have been ascertained by the exercise of due diligence by the
1.16 petitioner or petitioner's attorney within the two-year time period for filing a postconviction
1.17 petition, and the evidence is not cumulative to evidence presented at trial, is not for
1.18 impeachment purposes, and establishes by a clear and convincing standard that the petitioner
1.19 is innocent of the offense or offenses for which the petitioner was convicted;

1.20 (3) the petitioner asserts a new interpretation of federal or state constitutional or statutory
1.21 law by either the United States Supreme Court or a Minnesota appellate court and the

2.1 petitioner establishes that this interpretation is retroactively applicable to the petitioner's
2.2 case;

2.3 (4) the petition is brought pursuant to subdivision 3; ~~or~~

2.4 (5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous
2.5 and is in the interests of justice; or

2.6 (6) the petitioner is either placed into immigration removal proceedings, or detained for
2.7 the purpose of removal from the United States, or received notice to report for removal, as
2.8 a result of a conviction that was obtained by relying on incorrect advice or absent advice
2.9 from counsel on immigration consequences.

2.10 (c) Any petition invoking an exception provided in paragraph (b) must be filed within
2.11 two years of the date the claim arises.