

## Post-Conviction Hearing Act Amendment

In 2018, the General Assembly passed Act 146, which expanded PCRA eligibility after supervision in the limited cases of DNA evidence availability and expanded the time for filing an exception to a petition from 60 days to one year from the date a claim could have been presented. While this act represents a laudable attempt to expand state collateral review to more innocent individuals, a portion of this population continues to suffer the consequences of their false convictions under the act, particularly upon re-entry to society.

As reported in a Philadelphia Inquirer article this summer, Chester Hollman, III was released from prison twenty-five (25) years after being sentenced to life for murder. His release was predicated on non-DNA evidence that showed a trial witness was coerced by prosecutors to implicate Mr. Hollman in the murder. While Mr. Hollman was not pigeon-holed from accessing the courts due to a procedural impediment in the appeals process, it does show that non-DNA evidence can come to light many years after a conviction and can be strong enough to lead to the exoneration of an innocent person.

My legislation would amend both Title 18, Section 9122.5 and Title 42, Sections 9542, 9543 and 9545 to do several things. Specifically, under Title 18, Section 9122.5 (Effects of expunged records and records subject to limited access), a subsection would be added to address collateral consequences of conviction, specifying that an expunged record may not prohibit an individual from activities under the laws of the Commonwealth as a result of their criminal conviction.

The amendments to Title 42 would accomplish the following: (1) removes language that specifies the PCRA is the sole means of obtaining collateral relief and adds language allowing the PCRA to provide relief from collateral consequences when records are ordered to be expunged; (2) removes the incarceration or supervision barrier to access PCRA remedies by providing a two-year period to file a petition based on newly discovered evidence for persons who are no longer under supervision or incarceration while including several safeguards aimed at restricting continuous collateral appeals based on the same claims; (3) increases the time for filing a petition under the act to within two years (currently one year) of the date of final judgment; (4) allows that any exception to a petition filed must be done so within two years from either when the grounds for the exception were discovered or reasonably could have been discovered. Currently, the statute provides that an exception must be filed within one year of the date the claim could have been presented.

Newly discovered evidence claims are limited to the following:

- A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
- A plea of guilty was unlawfully induced and the petitioner is innocent.
- The improper obstruction by government officials of the petitioner's right of appeal of meritorious appealable issue.
- The unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if introduced.
- The failure to raise the claim previously was the result of interference by government officials.
- The facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence.
- The right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania and has been held by the Court to apply retroactively.

Failing to provide an adequate remedy of state appeal to any innocent person is a serious miscarriage of

justice. My amendments will enable wrongly convicted people an opportunity to present ALL evidence that would be exculpatory in nature while balancing the court's time and resources. Providing for this expansion of remedies will not lead to an inundation of appeals into the court system across the state, but rather enable those for whom no collateral state review exists an opportunity to clear their name.