

118TH CONGRESS
2D SESSION

H. R. 9868

To amend title 28, United States Code, to clarify the availability of Federal habeas corpus relief for a person who is sentenced to death though actually innocent.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2024

Mr. JOHNSON of Georgia (for himself, Ms. PINGREE, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to clarify the availability of Federal habeas corpus relief for a person who is sentenced to death though actually innocent.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Effective Death Pen-
5 alty Appeals Act”.

1 **SEC. 2. CLARIFICATION OF THE AVAILABILITY OF FEDERAL**
2 **HABEAS CORPUS RELIEF FOR A PERSON WHO**
3 **IS SENTENCED TO DEATH THOUGH ACTU-**
4 **ALLY INNOCENT.**

5 Section 2254(d) of title 28, United States Code, is
6 amended—

7 (1) in paragraph (1), by striking “; or” and in-
8 serting a semicolon;

9 (2) in paragraph (2), by striking the period and
10 inserting “; or”; and

11 (3) by adding at the end the following:

12 “(3) resulted in, or left in force, a sentence of
13 death that was imposed without consideration of
14 newly discovered evidence which, in combination
15 with the evidence presented at trial, demonstrates
16 that the applicant is probably not guilty of the un-
17 derlying offense.”.

18 **SEC. 3. CLARIFICATION OF THE AVAILABILITY OF AN EVI-**
19 **DENTIARY HEARING.**

20 Section 2254(e)(2)(A) of title 28, United States
21 Code, is amended—

22 (1) in clause (i), by striking “or” at the end;

23 (2) in clause (ii) by striking “and” at the end
24 and inserting “or”; and

25 (3) by adding at the end the following:

1 “(iii) in the case of an applicant sen-
 2 tenced to death, such failure was the result
 3 of ineffective assistance of postconviction
 4 counsel in a State that prohibits an ineff-
 5 ective assistance of counsel claim on direct
 6 appeal; and”.

7 **SEC. 4. CONFORMING AMENDMENTS RELATING TO SECOND**
 8 **AND SUCCESSIVE PETITIONS.**

9 (a) STATE CONVICTIONS.—Section 2244(b) of title
 10 28, United States Code, is amended—

11 (1) in paragraph (1), by striking “A” and in-
 12 serting “Except as provided in paragraph (5), a”;
 13 and

14 (2) by adding at the end the following:

15 “(5) A claim that an applicant was sentenced to
 16 death without consideration of newly discovered evi-
 17 dence which, in combination with the evidence pre-
 18 sented at trial, could reasonably be expected to dem-
 19 onstrate that the applicant is probably not guilty of
 20 the underlying offense may be presented in a second
 21 or successive habeas corpus application.”.

22 (b) FEDERAL CONVICTIONS.—Section 2255(h) of
 23 title 28, United States Code, is amended—

24 (1) in paragraph (1), by striking “or”;

1 (2) by striking the period at the end of para-
2 graph (2) and inserting “; or”; and

3 (3) by adding at the end the following:

4 “(3) a claim that an applicant was sentenced to
5 death without consideration of newly discovered evi-
6 dence which, in combination with the evidence pre-
7 sented at trial, could reasonably be expected to dem-
8 onstrate that the applicant is probably not guilty of
9 the underlying offense.”.

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