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HOUSE BILL NO. 153

Offered January 8, 2014

Prefiled December 20, 2013

A *BILL to amend and reenact § 19.2-327.10 of the Code of Virginia, relating to issuance of writ of actual innocence based on nonbiological evidence; additional writ; change in law.*

Patron—Morrissey

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-327.10 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-327.10. Issuance of writ of actual innocence based on nonbiological evidence.

Notwithstanding any other provision of law or rule of court, upon a petition of a person who was convicted of a felony upon a plea of not guilty, or the petition of a person who was adjudicated delinquent, upon a plea of not guilty, by a circuit court of an offense that would be a felony if committed by an adult, the Court of Appeals shall have the authority to issue writs of actual innocence under this chapter. Only one such writ based upon such conviction or adjudication of delinquency may be filed by a petitioner *unless (i) the petitioner shows that the claim relies on a rule of constitutional law established by the Supreme Court of Virginia or the United States Supreme Court that was made retroactive in cases on collateral review and that such rule of constitutional law was previously unavailable or (ii) the petitioner shows that the claim relies on a change in statute, made retroactive, applicable in cases on collateral review that was previously unavailable.* The writ shall lie to the circuit court that entered the conviction or the adjudication of delinquency and that court shall have the authority to conduct hearings, as provided for in this chapter, on such a petition as directed by order from the Court of Appeals. In accordance with §§ 17.1-411 and 19.2-317, either party may appeal a final decision of the Court of Appeals to the Supreme Court of Virginia. Upon an appeal from the Court of Appeals, the Supreme Court of Virginia shall have the authority to issue writs in accordance with the provisions of this chapter.

INTRODUCED

HB153