As Introduced

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H. B. No. 586

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Representatives Schmidt, Upchurch

Cosponsors: Representatives Ingram, White, Lampton, Grendell, Humphrey, Miller, A., Ray, Seitz, Johnson, Holmes, Miller, J.

A BILL

То	amend sections 2953.21 and 2953.23 of the	1
	Revised Code to authorize the filing of an	2
	initial or subsequent postconviction relief	3
	petition regarding a felony conviction that is	4
	based on DNA testing showing actual innocence,	5
	when the testing was done at the request or on	6
	behalf of the petitioner in the case in any	7
	circumstances, the state, or any government	8
	entity.	9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2953.21 and 2953.23 of the	10
Revised Code be amended to read as follows:	11
Sec. 2953.21. (A)(1)(a) A person in any of the following	12
categories may file a petition in the court that imposed	13
sentence, stating the grounds for relief relied upon, and asking	14
the court to vacate or set aside the judgment or sentence or to	15
grant other appropriate relief:	16
(i) Any person who has been convicted of a criminal	17

offense or adjudicated a delinquent child and who claims that	18
there was such a denial or infringement of the person's rights	19
as to render the judgment void or voidable under the Ohio	20
Constitution or the Constitution of the United States;	21
(ii) Any person who has been convicted of a criminal	22
offense and sentenced to death and who claims that there was a	23
denial or infringement of the person's rights under either of	24
those Constitutions that creates a reasonable probability of an	25
altered verdict;	26
(iii) Any person who has been convicted of a criminal	27
offense that is a felony and who is an offender for whom whose	28
petition is based on qualifying DNA testing that was performed	29
under sections 2953.71 to 2953.81 of the Revised Code or under-	30
former section 2953.82 of the Revised Code and analyzed in the-	31
context of and upon consideration of all available admissible-	32
evidence related to the person's case as described in division-	33
(D) of section 2953.74 of the Revised Code that provided results	34
that establish, by clear and convincing evidence, actual	35
innocence of that felony offense or, if the person was sentenced	36
to death, establish, by clear and convincing evidence, actual	37
innocence of the aggravating circumstance or circumstances the	38
person was found guilty of committing and that is or are the	39
basis of that sentence of death;	40
(iv) Any person who has been convicted of aggravated	41
murder and sentenced to death for the offense and who claims	42
that the person had a serious mental illness at the time of the	43
commission of the offense and that as a result the court should	44
render void the sentence of death, with the filing of the	45
petition constituting the waiver described in division (A)(3)(b)	46

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of this section.

(b) A petitioner under division (A)(1)(a) of this section	48
may file a supporting affidavit and other documentary evidence	49
in support of the claim for relief.	50
(c) As used in division (A)(1)(a) of this section:	51
(i) "Qualifying DNA testing" means either of the	52
following:	53
(I) DNA testing that was performed under sections 2953.71	54
to 2953.81 of the Revised Code or under former section 2953.82	55
of the Revised Code;	56
(II) DNA testing that was performed at the request or on	57
behalf of the petitioner other than as described in division (A)	58
(1)(c)(i)(I) of this section or at the request or on behalf of	59
the state or any government entity.	60
(ii) "Actual innocence" means that, had the results of the	61
DNA testing conducted under sections 2953.71 to 2953.81 of the	62
Revised Code or under former section 2953.82 of the Revised Code	63
in a context described in division (A)(1)(c)(i) of this section	64
been presented at trial, and had those results been analyzed in	65
the context of and upon consideration of all available	66
admissible evidence related to the person's case—as described in—	67
division (D) of section 2953.74 of the Revised Code, no	68
reasonable factfinder would have found the petitioner guilty of	69
the offense of which the petitioner was convicted, or, if the	70
person was sentenced to death, no reasonable factfinder would	71
have found the petitioner guilty of the aggravating circumstance	72
or circumstances the petitioner was found guilty of committing	73
and that is or are the basis of that sentence of death.	7 4
(ii) (iii) "Serious mental illness" has the same meaning as	75
in section 2020 025 of the Powised Code	76

(d) As used in divisions (A)(1)(a) and (c) of this	77
section, "former section 2953.82 of the Revised Code" means	78
section 2953.82 of the Revised Code as it existed prior to July	79
6, 2010.	80

- (e) At any time in conjunction with the filing of a 81 petition for postconviction relief under division (A) of this 82 section by a person who has been sentenced to death, or with the 83 litigation of a petition so filed, the court, for good cause 84 shown, may authorize the petitioner in seeking the 85 postconviction relief and the prosecuting attorney of the county 86 served by the court in defending the proceeding, to take 87 depositions and to issue subpoenas and subpoenas duces tecum in 88 accordance with divisions (A)(1)(e), (A)(1)(f), and (C) of this 89 section, and to any other form of discovery as in a civil action 90 that the court in its discretion permits. The court may limit 91 the extent of discovery under this division. In addition to 92 discovery that is relevant to the claim and was available under 93 Criminal Rule 16 through conclusion of the original criminal 94 trial, the court, for good cause shown, may authorize the 95 petitioner or prosecuting attorney to take depositions and issue 96 subpoenas and subpoenas duces tecum in either of the following 97 circumstances: 98
- (i) For any witness who testified at trial or who was 99 disclosed by the state prior to trial, except as otherwise 100 provided in this division, the petitioner or prosecuting 101 attorney shows clear and convincing evidence that the witness is 102 material and that a deposition of the witness or the issuing of 103 a subpoena or subpoena duces tecum is of assistance in order to 104 substantiate or refute the petitioner's claim that there is a 105 reasonable probability of an altered verdict. This division does 106 not apply if the witness was unavailable for trial or would not 107

voluntarily be interviewed by the defendant or prosecuting	108
attorney.	109
(ii) For any witness with respect to whom division (A)(1)	110
(e) (i) of this section does not apply, the petitioner or	111
prosecuting attorney shows good cause that the witness is	112
material and that a deposition of the witness or the issuing of	113
a subpoena or subpoena duces tecum is of assistance in order to	114
substantiate or refute the petitioner's claim that there is a	115
reasonable probability of an altered verdict.	116
reasonable probability of an affected vertice.	110
(f) If a person who has been sentenced to death and who	117
files a petition for postconviction relief under division (A) of	118
this section requests postconviction discovery as described in	119
division (A)(1)(e) of this section or if the prosecuting	120
attorney of the county served by the court requests	121
postconviction discovery as described in that division, within	122
ten days after the docketing of the request, or within any other	123
time that the court sets for good cause shown, the prosecuting	124
attorney shall respond by answer or motion to the petitioner's	125
request or the petitioner shall respond by answer or motion to	126
the prosecuting attorney's request, whichever is applicable.	127
(g) If a person who has been sentenced to death and who	128
files a petition for postconviction relief under division (A) of	129
this section requests postconviction discovery as described in	130
division (A)(1)(e) of this section or if the prosecuting	131
attorney of the county served by the court requests	132
postconviction discovery as described in that division, upon	133
motion by the petitioner, the prosecuting attorney, or the	134
person from whom discovery is sought, and for good cause shown,	135
the court in which the action is pending may make any order that	136
justice requires to protect a party or person from oppression or	137

undue burden or expense, including but not limited to the orders	138
described in divisions (A)(1)(h)(i) to (viii) of this section.	139
The court also may make any such order if, in its discretion, it	140
determines that the discovery sought would be irrelevant to the	141
claims made in the petition; and if the court makes any such	142
order on that basis, it shall explain in the order the reasons	143
why the discovery would be irrelevant.	144
(h) If a petitioner, prosecuting attorney, or person from	145
whom discovery is sought makes a motion for an order under	146
division (A)(1)(g) of this section and the order is denied in	147
whole or in part, the court, on terms and conditions as are	148
just, may order that any party or person provide or permit	149
discovery as described in division (A)(1)(e) of this section.	150
The provisions of Civil Rule 37(A)(4) apply to the award of	151
expenses incurred in relation to the motion, except that in no	152
case shall a court require a petitioner who is indigent to pay	153
expenses under those provisions.	154
Before any person moves for an order under division (A)(1)	155
(g) of this section, that person shall make a reasonable effort	156
to resolve the matter through discussion with the petitioner or	157
prosecuting attorney seeking discovery. A motion for an order	158
under division (A)(1)(g) of this section shall be accompanied by	159
a statement reciting the effort made to resolve the matter in	160
accordance with this paragraph.	161
The orders that may be made under division (A)(1)(g) of	162
this section include, but are not limited to, any of the	163
following:	164

(ii) That the discovery may be had only on specified terms 166

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(i) That the discovery not be had;

and conditions, including a designation of the time or place;	167
(iii) That the discovery may be had only by a method of	168
discovery other than that selected by the party seeking	169
discovery;	170
(iv) That certain matters not be inquired into or that the	171
scope of the discovery be limited to certain matters;	172
(v) That discovery be conducted with no one present except	173
persons designated by the court;	174
(vi) That a deposition after being sealed be opened only	175
by order of the court;	176
(vii) That a trade secret or other confidential research,	177
development, or commercial information not be disclosed or be	178
disclosed only in a designated way;	179
(viii) That the parties simultaneously file specified	180
documents or information enclosed in sealed envelopes to be	181
opened as directed by the court.	182
(i) Any postconviction discovery authorized under division	183
(A)(1)(e) of this section shall be completed not later than	184
eighteen months after the start of the discovery proceedings	185
unless, for good cause shown, the court extends that period for	186
completing the discovery.	187
(j) Nothing in division (A)(1)(e) of this section	188
authorizes, or shall be construed as authorizing, the	189
relitigation, or discovery in support of relitigation, of any	190
matter barred by the doctrine of res judicata.	191
(k) Division (A)(1) of this section does not apply to any	192
person who has been convicted of a criminal offense and	193
sentenced to death and who has unsuccessfully raised the same	194

claims in a petition for postconviction relief, provided that	195
this division does not limit or preclude a person from doing	196
either of the following:	197
(i) Filing a second or successive petition for	198
postconviction relief when authorized under section 2953.23 of	199
the Revised Code;	200
(ii) Filing a petition for postconviction relief that	201
meets the requirements of division (A)(1)(a) of this section and	202
that is based on DNA testing conducted at the request or on	203
behalf of the state or any government entity, if the person	204
previously filed a petition for postconviction relief based on	205
DNA testing conducted at the request or on behalf of the state	206
or any government entity before the effective date of this	207
amendment.	208
(2)(a) Except as otherwise provided in section 2953.23 of	209
the Revised Code, a petition under division (A)(1)(a)(i), (ii),	210
or (iii) of this section shall be filed no later than three	211
hundred sixty-five days after the date on which the trial	212
transcript is filed in the court of appeals in the direct appeal	213
of the judgment of conviction or adjudication or, if the direct	214
appeal involves a sentence of death, the date on which the trial	215
transcript is filed in the supreme court. If no appeal is taken,	216
except as otherwise provided in section 2953.23 of the Revised	217
Code, the petition shall be filed no later than three hundred	218
sixty-five days after the expiration of the time for filing the	219
appeal.	220
(b) Except as otherwise provided in section 2953.23 of the	221
Revised Code, a petition under division (A)(1)(a)(iv) of this	222
section shall be filed not later than three hundred sixty-five	223
days after the effective date of this amendment April 12, 2021.	224

(3) (a) In a petition filed under division (A) (1) (a) (i),	225
(ii), or (iii) of this section, a person who has been sentenced	226
to death may ask the court to render void or voidable the	227
judgment with respect to the conviction of aggravated murder or	228
the specification of an aggravating circumstance or the sentence	229
of death.	230
(b) A person sentenced to death who files a petition under	231
division (A)(1)(a)(iv) of this section may ask the court to	232
render void the sentence of death and to order the resentencing	233
of the person under division (A) of section 2929.06 of the	234
Revised Code. If a person sentenced to death files such a	235
petition and asks the court to render void the sentence of death	236
and to order the resentencing of the person under division (A)	237
of section 2929.06 of the Revised Code, the act of filing the	238
petition constitutes a waiver of any right to be sentenced under	239
the law that existed at the time the offense was committed and	240
constitutes consent to be sentenced to life imprisonment without	241
parole under division (A) of section 2929.06 of the Revised	242
Code.	243
(4) A petitioner shall state in the original or amended	244
petition filed under division (A) of this section all grounds	245
for relief claimed by the petitioner. Except as provided in	246
section 2953.23 of the Revised Code, any ground for relief that	247
is not so stated in the petition is waived.	248
(5) If the petitioner in a petition filed under division	249
(A) (1) (a) (i), (ii), or (iii) of this section was convicted of or	250
pleaded guilty to a felony, the petition may include a claim	251
that the petitioner was denied the equal protection of the laws	252
in violation of the Ohio Constitution or the United States	253
Constitution because the sentence imposed upon the petitioner	254

for the felony was part of a consistent pattern of disparity in 255 sentencing by the judge who imposed the sentence, with regard to 256 the petitioner's race, gender, ethnic background, or religion. 257 If the supreme court adopts a rule requiring a court of common 258 pleas to maintain information with regard to an offender's race, 259 gender, ethnic background, or religion, the supporting evidence 260 for the petition shall include, but shall not be limited to, a 261 copy of that type of information relative to the petitioner's 262 sentence and copies of that type of information relative to 263 sentences that the same judge imposed upon other persons. 264

- (6) Notwithstanding any law or court rule to the contrary, 265 there is no limit on the number of pages in, or on the length 266 of, a petition filed under division (A)(1)(a)(i), (ii), (iii), 267 or (iv) of this section by a person who has been sentenced to 268 death. If any court rule specifies a limit on the number of 269 pages in, or on the length of, a petition filed under division 270 (A)(1)(a)(i), (ii), (iii), or (iv) of this section or on a 271 prosecuting attorney's response to such a petition by answer or 272 motion and a person who has been sentenced to death files a 273 petition that exceeds the limit specified for the petition, the 274 prosecuting attorney may respond by an answer or motion that 275 exceeds the limit specified for the response. 276
- (B) The clerk of the court in which the petition for 277 postconviction relief and, if applicable, a request for 278 postconviction discovery described in division (A)(1)(e) of this 279 section is filed shall docket the petition and the request and 280 bring them promptly to the attention of the court. The clerk of 281 the court in which the petition for postconviction relief and, 282 if applicable, a request for postconviction discovery described 283 in division (A)(1)(e) of this section is filed immediately shall 284 forward a copy of the petition and a copy of the request if 285

filed by the petitioner to the prosecuting attorney of the

county served by the court. If the request for postconviction

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discovery is filed by the prosecuting attorney, the clerk of the

court immediately shall forward a copy of the request to the

petitioner or the petitioner's counsel.

- (C) If a person who has been sentenced to death and who 291 files a petition for postconviction relief under division (A)(1) 292 (a) (i), (ii), (iii), or (iv) of this section requests a 293 294 deposition or the prosecuting attorney in the case requests a 295 deposition, and if the court grants the request under division (A)(1)(e) of this section, the court shall notify the petitioner 296 or the petitioner's counsel and the prosecuting attorney. The 297 deposition shall be conducted pursuant to divisions (B), (D), 298 and (E) of Criminal Rule 15. Notwithstanding division (C) of 299 Criminal Rule 15, the petitioner is not entitled to attend the 300 deposition. The prosecuting attorney shall be permitted to 301 attend and participate in any deposition. 302
- (D) The court shall consider a petition that is timely 303 filed within the period specified in division (A)(2) of this 304 section even if a direct appeal of the judgment is pending. 305 Before granting a hearing on a petition filed under division (A) 306 (1)(a)(i), (ii), (iii), or (iv) of this section, the court shall 307 determine whether there are substantive grounds for relief. In 308 making such a determination, the court shall consider, in 309 addition to the petition, the supporting affidavits, and the 310 documentary evidence, all the files and records pertaining to 311 the proceedings against the petitioner, including, but not 312 limited to, the indictment, the court's journal entries, the 313 journalized records of the clerk of the court, and the court 314 reporter's transcript. The court reporter's transcript, if 315 ordered and certified by the court, shall be taxed as court 316

costs. If the court dismisses the petition, it shall make and	317
file findings of fact and conclusions of law with respect to	318
such dismissal. If the petition was filed by a person who has	319
been sentenced to death, the findings of fact and conclusions of	320
law shall state specifically the reasons for the dismissal of	321
the petition and of each claim it contains.	322
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(E) Within ten days after the docketing of the petition,	323
or within any further time that the court may fix for good cause	324
shown, the prosecuting attorney shall respond by answer or	325
motion. Division (A)(6) of this section applies with respect to	326

judgment. The right to summary judgment shall appear on the face 329 of the record.

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the prosecuting attorney's response. Within twenty days from the

date the issues are raised, either party may move for summary

(F) Unless the petition and the files and records of the case show the petitioner is not entitled to relief, the court shall proceed to a prompt hearing on the issues even if a direct appeal of the case is pending. If the court notifies the parties that it has found grounds for granting relief, either party may request an appellate court in which a direct appeal of the judgment is pending to remand the pending case to the court.

With respect to a petition filed under division (A)(1)(a) 338 (iv) of this section, the procedures and rules regarding 339 introduction of evidence and burden of proof at the pretrial 340 hearing that are set forth in divisions (C), (D), and (F) of 341 section 2929.025 of the Revised Code apply in considering the 342 petition. With respect to such a petition, the grounds for 343 granting relief are that the person has been diagnosed with one 344 or more of the conditions set forth in division (A)(1)(a) of 345 section 2929.025 of the Revised Code and that, at the time of 346

the aggravated murder that was the basis of the sentence of	347
death, the condition or conditions significantly impaired the	348
person's capacity in a manner described in division (A)(1)(b) of	349
that section.	350
(G) A petitioner who files a petition under division (A)	351
(1) (a) (i), (iii), (iii), or (iv) of this section may amend the	352
petition as follows:	353
(1) If the petition was filed by a person who has been	354
sentenced to death, at any time that is not later than one	355
hundred eighty days after the petition is filed, the petitioner	356
may amend the petition with or without leave or prejudice to the	357
proceedings.	358
(2) If division (G)(1) of this section does not apply, at	359
any time before the answer or motion is filed, the petitioner	360
may amend the petition with or without leave or prejudice to the	361
proceedings.	362
(3) The petitioner may amend the petition with leave of	363
court at any time after the expiration of the applicable period	364
specified in division (G)(1) or (2) of this section.	365
(H) If the court does not find grounds for granting	366
relief, it shall make and file findings of fact and conclusions	367
of law and shall enter judgment denying relief on the petition.	368
If the petition was filed by a person who has been sentenced to	369
death, the findings of fact and conclusions of law shall state	370
specifically the reasons for the denial of relief on the	371
petition and of each claim it contains. If no direct appeal of	372
the case is pending and the court finds grounds for relief or if	373
a pending direct appeal of the case has been remanded to the	374
court pursuant to a request made pursuant to division (F) of	375

this section and the court finds grounds for granting relief, it	376
shall make and file findings of fact and conclusions of law and	377
shall enter a judgment that vacates and sets aside the judgment	378
in question, and, in the case of a petitioner who is a prisoner	379
in custody, except as otherwise described in this division,	380
shall discharge or resentence the petitioner or grant a new	381
trial as the court determines appropriate. If the court finds	382
grounds for relief in the case of a petitioner who filed a	383
petition under division (A)(1)(a)(iv) of this section, the court	384
shall render void the sentence of death and order the	385
resentencing of the offender under division (A) of section	386
2929.06 of the Revised Code. If the petitioner has been	387
sentenced to death, the findings of fact and conclusions of law	388
shall state specifically the reasons for the finding of grounds	389
for granting the relief, with respect to each claim contained in	390
the petition. The court also may make supplementary orders to	391
the relief granted, concerning such matters as rearraignment,	392
retrial, custody, and bail. If the trial court's order granting	393
the petition is reversed on appeal and if the direct appeal of	394
the case has been remanded from an appellate court pursuant to a	395
request under division (F) of this section, the appellate court	396
reversing the order granting the petition shall notify the	397
appellate court in which the direct appeal of the case was	398
pending at the time of the remand of the reversal and remand of	399
the trial court's order. Upon the reversal and remand of the	400
trial court's order granting the petition, regardless of whether	401
notice is sent or received, the direct appeal of the case that	402
was remanded is reinstated.	403

(I) Upon the filing of a petition pursuant to division (A) 404
(1)(a)(i), (iii), or (iv) of this section by a person 405
sentenced to death, only the supreme court may stay execution of 406

the sentence of death. 407 (J) (1) If a person sentenced to death intends to file a 408 petition under this section, the court shall appoint counsel to 409 represent the person upon a finding that the person is indigent 410 and that the person either accepts the appointment of counsel or 411 is unable to make a competent decision whether to accept or 412 reject the appointment of counsel. The court may decline to 413 appoint counsel for the person only upon a finding, after a 414 hearing if necessary, that the person rejects the appointment of 415 counsel and understands the legal consequences of that decision 416 or upon a finding that the person is not indigent. 417 (2) The court shall not appoint as counsel under division 418 (J) (1) of this section an attorney who represented the 419 petitioner at trial in the case to which the petition relates 420 unless the person and the attorney expressly request the 421 appointment. The court shall appoint as counsel under division 422 (J) (1) of this section only an attorney who is certified under 423 Rule 20 of the Rules of Superintendence for the Courts of Ohio 424 to represent indigent defendants charged with or convicted of an 425 offense for which the death penalty can be or has been imposed. 426 The ineffectiveness or incompetence of counsel during 427 proceedings under this section does not constitute grounds for 428 relief in a proceeding under this section, in an appeal of any 429 action under this section, or in an application to reopen a 430 direct appeal. 431 (3) Division (J) of this section does not preclude 432 attorneys who represent the state of Ohio from invoking the 433 provisions of 28 U.S.C. 154 with respect to capital cases that 434 were pending in federal habeas corpus proceedings prior to July 435

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1, 1996, insofar as the petitioners in those cases were

represented in proceedings under this section by one or more	437
counsel appointed by the court under this section or section	438
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those	439
appointed counsel meet the requirements of division (J)(2) of	440
this section.	441
(K) Subject to the appeal of a sentence for a felony that	442
is authorized by section 2953.08 of the Revised Code, the remedy	443
set forth in this section is the exclusive remedy by which a	444
person may bring a collateral challenge to the validity of a	445
conviction or sentence in a criminal case or to the validity of	446
an adjudication of a child as a delinquent child for the	447
commission of an act that would be a criminal offense if	448
committed by an adult or the validity of a related order of	449
disposition.	450
Sec. 2953.23. (A) Whether a hearing is or is not held on a	451
petition filed pursuant to section 2953.21 of the Revised Code,	452
a court may not entertain a petition filed after the expiration	453
of the period prescribed in division (A) of that section or a	454
second petition or successive petitions for similar relief on	455
behalf of a petitioner unless division (A)(1) or (2) of this	456
section applies:	457
(1) Both of the following apply:	458
(a) Either the petitioner shows that the petitioner was	459
unavoidably prevented from discovery of the facts upon which the	460
petitioner must rely to present the claim for relief, or,	461
subsequent to the period prescribed in division (A)(2) of	462
section 2953.21 of the Revised Code or to the filing of an	463
earlier petition, the United States Supreme Court recognized a	464
new federal or state right that applies retroactively to persons	465
in the petitioner's situation, and the petition asserts a claim	466

based on that right.	467
(b) The petitioner shows by clear and convincing evidence	468
that, but for constitutional error at trial, no reasonable	469
factfinder would have found the petitioner guilty of the offense	470
of which the petitioner was convicted or, if the claim	471
challenges a sentence of death that, but for constitutional	472
error at the sentencing hearing, no reasonable factfinder would	473
have found the petitioner eligible for the death sentence.	474
(2) All of the following apply:	475
(a) The petitioner was convicted of a felony, the	476
petitioner is an offender for whom.	477
(b) The petitioner's petition is based on qualifying DNA	478
testing-was performed under sections 2953.71 to 2953.81 of the-	479
Revised Code or under former section 2953.82 of the Revised Code	480
and analyzed in the context of and upon consideration of all	481
available admissible evidence related to the inmate's case as	482
described in division (D) of section 2953.74 of the Revised	483
Code, and the.	484
(c) The results of the qualifying DNA testing establish,	485
by clear and convincing evidence, actual innocence of that	486
felony offense or, if the person was sentenced to death,	487
establish, by clear and convincing evidence, actual innocence of	488
the aggravating circumstance or circumstances the person was	489
found guilty of committing and that is or are the basis of that	490
sentence of death.	491
As used in this division, "actual innocence" has the same	492
meaning as in division (A)(1)(c) of section 2953.21 of the	493
Revised Code, and "former section 2953.82 of the Revised Code"	494
has the same meaning as in division (A) (1) (d) of section 2953.21	495

of the Revised Code.	496
(B) An order awarding or denying relief sought in a	497
petition filed pursuant to section 2953.21 of the Revised Code	498
is a final judgment and may be appealed pursuant to Chapter	499
2953. of the Revised Code.	500
If a petition filed pursuant to section 2953.21 of the	501
Revised Code by a person who has been sentenced to death is	502
denied and the person appeals the judgment, notwithstanding any	503
law or court rule to the contrary, there is no limit on the	504
number of pages in, or on the length of, a notice of appeal or	505
briefs related to an appeal filed by the person. If any court	506
rule specifies a limit on the number of pages in, or on the	507
length of, a notice of appeal or briefs described in this	508
division or on a prosecuting attorney's response or briefs with	509
respect to such an appeal and a person who has been sentenced to	510
death files a notice of appeal or briefs that exceed the limit	511
specified for the petition, the prosecuting attorney may file a	512
response or briefs that exceed the limit specified for the	513
answer or briefs.	514
(C) Division (A)(2) of this section, as it exists on and	515
after the effective date of this amendment, is remedial and it	516
applies retroactively and with respect to any petition that	517
satisfies the criteria set forth in divisions (A)(2)(a) to (c)	518
of this section as they exist on and after that effective date	519
or the criteria set forth in division (A)(2) of this section as	520
it existed prior to that effective date, regardless of when the	521
subject felony offense was committed and regardless of whether	522
the petitioner previously filed any petition pursuant to	523
sections 2953.21 to 2953.23 of the Revised Code.	524
(D) As used in division (A)(2) of this section "actual	525

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innocence" and "qualifying DNA testing" have the same meanings	526
as in division (A)(1)(c) of section 2953.21 of the Revised Code.	527
Section 2. That existing sections 2953.21 and 2953.23 of	528
the Revised Code are hereby repealed.	529