

As Introduced

134th General Assembly

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H. B. No. 586

Representatives Schmidt, Upchurch

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

A BILL

To 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
of this section. 47

(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. 74

~~(ii)~~ (iii) "Serious mental illness" has the same meaning as 75
in section 2929.025 of the Revised 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 attorney. 108
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

(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

(i) That the discovery not be had; 165

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

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

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 286
county served by the court. If the request for postconviction 287
discovery is filed by the prosecuting attorney, the clerk of the 288
court immediately shall forward a copy of the request to the 289
petitioner or the petitioner's counsel. 290

(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
deposition or the prosecuting attorney in the case requests a 294
deposition, and if the court grants the request under division 295
(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

(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
the prosecuting attorney's response. Within twenty days from the 327
date the issues are raised, either party may move for summary 328
judgment. The right to summary judgment shall appear on the face 329
of the record. 330

(F) Unless the petition and the files and records of the 331
case show the petitioner is not entitled to relief, the court 332
shall proceed to a prompt hearing on the issues even if a direct 333
appeal of the case is pending. If the court notifies the parties 334
that it has found grounds for granting relief, either party may 335
request an appellate court in which a direct appeal of the 336
judgment is pending to remand the pending case to the court. 337

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), (ii), (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), (ii), (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
1, 1996, insofar as the petitioners in those cases were 436

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

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