



Rep. Scott Drury

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09800HB2961ham002

LRB098 09632 RLC 43988 a

1 AMENDMENT TO HOUSE BILL 2961

2 AMENDMENT NO. _____. Amend House Bill 2961, AS AMENDED,
3 with reference to page and line numbers of House Amendment No.
4 1, by replacing lines 17 through 26 on page 4 and lines 1
5 through 14 on page 5 with the following:

6 "(f) Only one petition may be filed by a petitioner under
7 this Article without leave of the court. The determination as
8 to whether to grant leave of court shall be made prior to or
9 contemporaneously with any order made under paragraph (2) of
10 subsection (a) or subsection (b) of Section 122-2.1 without
11 pleadings from the State. Leave of court may be granted ~~only~~ if
12 a petitioner demonstrates:

13 (1) cause for his or her failure to bring the claim in
14 his or her initial post-conviction proceedings and
15 prejudice results from that failure; or

16 (2) that there has been a fundamental miscarriage of
17 justice.

18 For purposes of this subsection (f):

1 (A) ~~(1)~~ a petitioner demonstrates ~~prisoner shows~~ cause
2 by adequately pleading that ~~identifying~~ an ~~identified~~
3 ~~objective~~ factor ~~that~~ impeded his or her ability to raise a
4 specific claim during his or her initial post-conviction
5 proceedings; ~~and~~

6 (B) ~~(2)~~ a petitioner demonstrates ~~prisoner shows~~
7 prejudice by adequately pleading ~~demonstrating~~ that the
8 claim not raised during his or her initial post-conviction
9 proceedings so infected the trial that the resulting
10 conviction or sentence violated due process; and ~~-~~

11 (C) a petitioner demonstrates a fundamental
12 miscarriage of justice by adequately pleading that there is
13 newly discovered evidence that establishes a substantial
14 basis to believe that the petitioner is actually innocent
15 by clear and convincing evidence."