

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB137

Hearing Date: Wednesday February 02, 2011
Committee On: Judiciary
Introducer: Lautenbaugh
One Liner: Change provisions relating to postconviction relief

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Ashford, Coash, Council, Harr, Larson, Lautenbaugh, McGill
Nay:		
Absent:	1	Senator Lathrop
Present Not Voting:		

Proponents:
SEN. SCOTT LAUTENBAUGH
JOHN FREUDENBERG

MARK YOUNG

Representing:
INTRODUCER
ATTORNEY GENERAL'S OFFICE & NEBRASKA
COUNTY ATTORNEY ASSOCIATION
NE COUNTY ATTORNEY

Opponents:
THOMAS STRIGENZ
ALAN PETERSON
JOHN KREJCI

Representing:
NEBRASKA CRIMINAL DEFENSE ATTORNEYS
ACLU OF NE
UNTERCHURCH MINISTRIES

Neutral:

Representing:

Summary of purpose and/or changes:

LB 137 would amend section 29-3001 (Post conviction relief) to provide that a verified motion for post conviction relief may only be filed within one year after the date a judgment of conviction became final. Currently, a verified motion may be filed at any time after the judgment of conviction became final.

LB 137 also provides that any prisoner whose conviction was final prior to the effective date of this act may file a verified motion within one year after the effective date of this act.

Explanation of amendments:

AM735 to LB 137

AM735 creates an exception to the current one year limitation under LB 137 for the filing of post conviction relief by providing that the one year period runs from the later of:

* The date the judgment of conviction became final by the conclusion of a direct appeal or the expiration of the time for filing a direct appeal,

* The date on which the factual predicate of the constitutional claim or claims alleged could have been discovered

through the exercise of due diligence,

* The date on which an impediment created by State action, in violation of the federal or state Constitutions or laws of Nebraska, is removed, if the prisoner was prevented from filing a verified motion by such State action,

* The date on which the constitutional claim asserted was initially recognized by the United States Supreme Court or Nebraska Supreme Court, if the newly recognized right has been made retroactively applicable to cases on post conviction collateral review. Any prisoner whose conviction was final prior to the effective date of this act may file such a verified motion within one year after the effective date of this act, or

* The effective date of this act.

Brad Ashford, Chairperson