

AMENDMENTS TO LB 76

1 1. Insert the following new section:

2 "Sec. 3. Section 29-3001, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 29-3001. A prisoner in custody under sentence and
5 claiming a right to be released on the ground that there was such a
6 denial or infringement of the rights of the prisoner as to render
7 the judgment void or voidable under the Constitution of this state
8 or the Constitution of the United States, may file a verified
9 motion at any time within five years after the sentencing date in
10 the court which imposed such sentence, stating the grounds relied
11 upon, and asking the court to vacate or set aside the sentence. A
12 prisoner may file only three petitions pursuant to this section
13 within the five-year period which alleges any and all grounds upon
14 which relief may be granted. A fourth or subsequent petition for
15 postconviction relief may not be filed or heard by the court
16 regardless of whether it is based on the same or different grounds
17 from the first petition, unless the petition involves the potential
18 innocence of the prisoner.

19 Unless the motion and the files and records of the case
20 show to the satisfaction of the court that the prisoner is entitled
21 to no relief, the court shall cause notice thereof to be served on
22 the county attorney, grant a prompt hearing thereon, determine the
23 issues and make findings of fact and conclusions of law with
24 respect thereto. If the court finds that there was such a denial

1 or infringement of the rights of the prisoner as to render the
2 judgment void or voidable under the Constitution of this state or
3 the Constitution of the United States, the court shall vacate and
4 set aside the judgment and shall discharge the prisoner or
5 resentence him or grant a new trial as may appear appropriate.
6 Proceedings under the provisions of sections 29-3001 to 29-3004
7 shall be civil in nature. Costs shall be taxed as in habeas corpus
8 cases.

9 A court may entertain and determine such motion without
10 requiring the production of the prisoner, whether or not a hearing
11 is held. Testimony of the prisoner or other witnesses may be
12 offered by deposition. ~~The court need not entertain a second
13 motion or successive motions for similar relief on behalf of the
14 same prisoner."~~

15 2. Renumber the remaining sections and correct repealer
16 accordingly.