

One Hundred Sixth Legislature - Second Session - 2020

Introducer's Statement of Intent

LB1081

Chairperson: Senator Steve Lathrop

Committee: Judiciary

Date of Hearing: February 19, 2020

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The Nebraska Postconviction Act (Act) provides a means by which a criminal defendant can claim that their conviction was obtained in violation of their constitutional rights. A defendant must show that they received the ineffective assistance of counsel or that their conviction is otherwise constitutionally deficient. In order for a defendant to bring a claim under the Act, they must be in custody or serving a sentence and must bring their claim within one year when their conviction is final or when they learn, or should have learned, the alleged violation of their constitutional right.

LB 1081 would amend the Act to provide that a defendant may bring a claim under the Act once they have actual knowledge of the ineffective performance of their trial counsel. The bill would also allow a defendant to bring a claim after they have been released from custody if they did not discover the ineffective assistance of counsel until after they had been released from custody.

Principal Introducer: _____

Senator Adam Morfeld