

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB316

Hearing Date: Thursday February 25, 2021
Committee On: Judiciary
Introducer: Cavanaugh, J.
One Liner: Change provisions relating to limitations for a postconviction relief action

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

Vote Results:
Aye: 8 Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing
Brooks, Slama
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents: Senator John Cavanaugh Spike Eickholt	Representing: Introducer Nebraska Criminal Defense Attorneys Association
Opponents:	Representing:
Neutral:	Representing:

Submitted Written Testimony:

Proponents: Tom Riley	Representing: Nebraska Criminal Defense Attorneys Association
Opponents:	Representing:
Neutral:	Representing:

Summary of purpose and/or changes:

LB 316 would add another date for determination of the limitation periods for postconviction relief motions. The current one year limitation period on such motions begins at the latest of: conclusion of a direct appeal; the date the constitutional claim could have been discovered; the date a constitutional claim was recognized by the court if made retroactive; the date of removal of a state created impediment. The bill would add an additional date: the date a writ of certiorari is denied or the US Supreme Court affirms the conviction.

Section by section

Section 1 Amends section 29-3001, addressing motions for postconviction release, to add a new date in computing the limitation period for the motion. New language in subsection (4)(e) would add the date that a writ of certiorari is denied or the US Supreme Court affirms the conviction.

Section 2 Repeals original section.

Explanation of amendments:

Committee Amendment AM354 would require the prisoner to notify the district court where convicted that a petition for a writ of certiorari was filed for the new limitation to apply. The notice must be filed within 30 days after the filing of the petition to the US Supreme Court.

Steve Lathrop, Chairperson