2065-S2 AMH DAVI RUSM 118

**2SHB 2065** - H AMD **1057**

By Representative Davis

**ADOPTED 02/13/2024**

On page 2, line 35, after "incarcerated" insert ". A petitioner’s significant disciplinary record may be overcome by a substantial period free from significant infractions that precedes the petition"

On page 3, beginning on line 4, after "determines" strike all material through "incarcerated" on line 7 and insert "there is evidence of an extraordinary adverse impact of the petitioner's release on the victim or survivors of the victim of the crime for which the petitioner is presently incarcerated, with special consideration given to the impact of release on any victims of sex offenses or domestic violence offenses committed against an intimate partner"

On page 3, line 19, after "(3)" insert "If the court denies a petition filed pursuant to this section and declines to set a hearing, or grants a hearing but declines to modify the petitioner's sentence at the hearing, the petitioner may, upon a showing of a change in circumstances, file a new petition no earlier than three years after the date the court denied the previous petition or declined to modify the petitioner's sentence, unless the court authorizes the petitioner to file a new petition at an earlier date. If the court denies the petition or declines to modify the petitioner's sentence, the court shall state the basis for its decision on the record. The petitioner may appeal the denial of a hearing or an order entered pursuant to a resentencing hearing, provided, however, that denying a petition filed pursuant to this section shall not reopen the petitioner's conviction or sentence to any other challenges that would otherwise be barred.

(4)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 3, line 24, after "(4)" insert "Any incarcerated individual who is eligible to file a petition under this section and unable to afford counsel is entitled to have counsel appointed, at no cost to the individual, to represent the individual for the petition and proceedings under this section, unless the individual expressly waives the right to counsel after being fully advised of this right by the court. The right to appointed counsel under this subsection does not establish a right to appointed counsel for any appeal or second or subsequent petition under this act.

(5)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

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|  | EFFECT:   * Modifies the reasons for which a court may deny a motion for resentencing. * Establishes timelines for when a petitioner may file a new petition for resentencing. * Requires a court to state the basis of its decision on the record if denying a petitioner's request for a hearing or resentencing. * Authorizes petitioners to appeal a denial of a hearing or an order entered pursuant to a resentencing hearing. * Establishes when an incarcerated person is eligible to have counsel appointed if the individual is unable to afford counsel. |

**--- END ---**