

One Hundred Second Legislature - First Session - 2011

Introducer's Statement of Intent

LB137

Chairperson: Senator Brad Ashford

Committee: Judiciary

Date of Hearing: February 02, 2011

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

LB137 imposes a one year limitation to bring a motion for post-conviction relief in criminal cases. Such motion would have to be filed within one year of the date a judgment of conviction becomes final. Currently, there is no time limitation.

Post-conviction relief pursuant to 29-3001 must be based upon the denial or infringement of a convicted person's Constitutional rights to a degree which renders the judgment of conviction void or voidable. The information required to determine whether such a claim exists is available immediately upon the completion of the appellate process. A delay in filing, which is currently allowed, frustrates case finality and allows for abuses where post-conviction motions are filed after important parties relevant to the issues raised are no longer available. This bill will align us with the federal system which also has a one year limitation for post-conviction challenges through the use of habeas motions.

LB137 does not affect Nebraska's motions for new trial based upon newly discovered evidence or Nebraska's DNA Testing Act. LB137 also has a grandfather provision which allows any person whose conviction was final prior to the effective date of this bill to file a post-conviction motion within one year of such date.

Principal Introducer: _____

Senator Scott Lautenbaugh