

§2129. Petition and procedure**1. Filing of petition.** Petitions shall be filed as follows.

A. A proceeding for post-conviction review shall be commenced by filing a petition in the Superior Court in the county specified in section 2123. [PL 1981, c. 238, §5 (NEW).]

B. If the petitioner desires to have counsel appointed, he shall file an affidavit of indigency in the form prescribed by the Supreme Judicial Court. If the petitioner is incarcerated, the affidavit shall be accompanied by a certificate of the appropriate officer of the institution in which the petitioner is incarcerated as to the amount of money or securities on deposit to the petitioner's credit in any account in the institution. The failure to include an affidavit of indigency with the petition does not bar the court from appointing counsel upon a subsequent filing of an affidavit of indigency. [PL 1981, c. 238, §5 (NEW).]

C. Once the petition has been filed, the clerk shall forward a copy of the petition and any separate documents filed with it to the Chief Justice of the Superior Court and to the prosecutorial office that earlier represented the State in the underlying criminal or juvenile proceeding. [PL 2003, c. 29, §3 (AMD).]

[PL 2003, c. 29, §3 (AMD).]

2. Assignment of case.

[PL 2003, c. 29, §4 (RP).]

3. Representation of respondent. In all proceedings for postconviction review, the State may be represented by the prosecutorial office that earlier represented the State in the underlying criminal or juvenile proceeding. On a case-by-case basis, a different prosecutorial office may represent the State on agreement between the 2 prosecutorial offices.

[PL 1991, c. 622, Pt. D (RPR).]

4. Bail pending disposition of petition. Pending final disposition, the assigned justice or judge may order the release of the petitioner on bail at such time and under such circumstances and conditions as the Supreme Judicial Court provides by rule.

[PL 2011, c. 601, §12 (AMD).]

5. Procedure in proceedings pursuant to this chapter. In all respects not covered by statute, the procedure in proceedings under this chapter is as the Supreme Judicial Court provides by rule.

[PL 2003, c. 29, §5 (AMD).]

6. Amendment to petition.

[PL 1981, c. 238, §5 (RP).]

7. Representation of respondent.

[PL 1981, c. 238, §5 (RP).]

8. Response.

[PL 1981, c. 238, §5 (RP).]

9. Discovery.

[PL 1981, c. 238, §5 (RP).]

10. Determination by court; hearing.

[PL 1981, c. 238, §5 (RP).]

11. Bail pending disposition of petition.

[PL 1981, c. 238, §5 (RP).]

SECTION HISTORY

PL 1979, c. 701, §15 (NEW). PL 1981, c. 238, §5 (RPR). PL 1983, c. 688, §9 (AMD). PL 1985, c. 209, §4 (AMD). PL 1985, c. 556, §3 (AMD). PL 1991, c. 622, §D (AMD). PL 2003, c. 29, §§3-5 (AMD). PL 2011, c. 601, §12 (AMD).

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