

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Levine, Heyman, Bloom, Bullard, Kosmas and
12 Turnbull offered the following:

14 **Amendment (with title amendment)**

15 On page 35, between lines 20 and 21 of the bill

17 insert:

18 Section 19. A second or successive motion shall be
19 denied if the judge finds that it fails to allege new or
20 different grounds for relief and the prior determination was
21 on the merits or, if new and different grounds are alleged,
22 the court finds that the failure of the movant or the attorney
23 to assert those grounds in a prior motion constitutes an abuse
24 of the procedure governed by these rules. The facts
25 underlying any second or successive motion must have been
26 unknown to the movant or the attorney and must not have been
27 ascertainable through the exercise of due diligence, or the
28 fundamental constitutional right asserted in the second or
29 successive motion has been newly announced and has been held
30 to apply retroactively. In a second or successive motion, the
31 movant or the attorney must allege that (1) the facts

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1 underlying the claim, if proven and viewed in light of the
2 evidence as a whole, is of such a nature that it would
3 probably result in an acquittal on retrial due to the
4 defendant's innocence of the underlying offense, (2) the facts
5 underlying the claim, if proven and viewed in light of the
6 evidence as a whole, are of such a nature that they would
7 probably result in the imposition of a different sentence, or
8 (3) that the fundamental fairness of the original proceedings
9 has been so compromised in light of the newly asserted facts
10 that the ends of justice require that a new trial or
11 sentencing proceeding be ordered. The time period for filing
12 a second or successive motion shall be 60 days from the
13 discovery of the new or different grounds as alleged in the
14 motion, or from the announcement of a newly announced
15 fundamental constitutional right that has been held to apply
16 retroactively.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 2, line 27,

22 remove from the title of the bill: all of said lines

23

24 and insert in lieu thereof:

25 inmates' counsel; providing provisions for a

26 successive motion; providing for severability;

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