

1 **SENATE FLOOR VERSION**

2 April 1, 2014

3 ENGROSSED HOUSE
4 BILL NO. 3254

By: Jordan of the House

5 and

6 Griffin of the Senate

7
8 An Act relating to criminal procedure; amending 22
9 O.S. 2011, Section 1083, which relates to the Post-
10 Conviction Procedure Act; providing separate time
11 limitation for answering certain post-conviction
12 relief claims; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1083, is
15 amended to read as follows:

16 Section 1083. ~~(a)~~ A. Within thirty (30) days after the
17 docketing of the application, or within any further time the court
18 may fix, the state shall respond by answer or by motion which may be
19 supported by affidavits. When an applicant asserts a claim of
20 ineffective assistance of counsel, the state shall have ninety (90)
21 days after the docketing of the application to respond by answer or
22 by motion. In considering the application, the court shall take
23 account of substance, regardless of defects of form. If the
24 application is not accompanied by the record of the proceedings

1 challenged therein, the respondent shall file with its answer the
2 record or portions thereof that are material to the questions raised
3 in the application; or such records may be ordered by the court.
4 The court may also allow depositions and affidavits for good cause
5 shown.

6 ~~(b)~~ B. When a court is satisfied, on the basis of the
7 application, the answer or motion of respondent, and the record,
8 that the applicant is not entitled to post-conviction relief and no
9 purpose would be served by any further proceedings, it may order the
10 application dismissed or grant leave to file an amended application.
11 Disposition on the pleadings and record is not proper if there
12 exists a material issue of fact. The judge assigned to the case
13 should not dispose of it on the basis of information within his
14 personal knowledge not made a part of the record.

15 ~~(c)~~ C. The court may grant a motion by either party for summary
16 disposition of the application when it appears from the response and
17 pleadings that there is no genuine issue of material fact and the
18 moving party is entitled to judgment as a matter of law. An order
19 disposing of an application without a hearing shall state the
20 court's findings and conclusions regarding the issues presented.

21 SECTION 2. This act shall become effective November 1, 2014.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
23 April 1, 2014 - DO PASS
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