

UNITED STATES CONGRESS — 118th Congress, 2d Session.

HOUSE BILL – PROPOSED
“CHARLES WALTON’S LAW”

Also known as “LAW CREATING AN EXCEPTION TO THE ONE-YEAR FEDERAL WRIT DEADLINE FOR NON-ATTORNEY PRISON INMATES WHO WERE DEPRIVED OF EFFECTIVE ASSISTANCE OF COUNSEL”

A proposed bill to amend Section 2244 of Title 28 of the United States Code.

1 BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES
2 OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

3 **Whereas**, there is currently a one-year deadline for convicted persons to challenge
4 their conviction in federal court with a federal writ of habeas corpus, as described
5 in 28 U.S.C. 2255 and 28 U.S.C. 2254,

6 **Whereas**, the one-year deadline begins from a trigger date described in subsection
7 (d) of 28 U.S.C. 2244,

8 **Whereas**, the one-year deadline trigger dates in 28 U.S.C. 2244(d) do not currently
9 include a date of discovery of a prior attorney’s errors,

10 **Whereas**, a non-attorney inmate in prison cannot be expected to be able to
11 discover his or her attorney’s errors within one year of the conclusion of his or her
12 case without a meaningful review of the case by an attorney,

13 **Whereas**, depriving inmates from meaningful review of their prior attorney’s
14 performance will necessarily amount to a violation of the Sixth Amendment right
15 to counsel in numerous instances,

16 **Therefore**, Section 2244 of Title 28 of the United States Code is amended with the
17 following additional subsection, (E), to be added to 28 U.S.C. 2244(d)(1) so that
18 the subsection reads as follows:

19 (d)

20 (1) A 1-year period of limitation shall apply to an application for a
21 writ of habeas corpus by a person in custody pursuant to the judgment
22 of a State court. The limitation period shall run from the latest of—

23 (A) the date on which the judgment became final by the
24 conclusion of direct review or the expiration of the time for
25 seeking such review;

26 (B) the date on which the impediment to filing an application
27 created by State action in violation of the Constitution or laws
28 of the United States is removed, if the applicant was prevented
29 from filing by such State action;

30 (C) the date on which the constitutional right asserted was
31 initially recognized by the Supreme Court, if the right has been
32 newly recognized by the Supreme Court and made retroactively
33 applicable to cases on collateral review; ~~or~~

34 (D) the date on which the factual predicate of the claim or
35 claims presented could have been discovered through the
36 exercise of due diligence; or

37 (E) the date on which the person in custody could have
38 discovered through the exercise of due diligence that conduct
39 by his or her prior attorney rose to the level of Constitutionally
40 ineffective assistance of counsel.