

REVISOR'S NOTE: Subsections (a) and (b)(1) of this section are new language derived without substantive change from former Art. 27, § 645A(a)(2)(i) and (ii).

Subsection (b)(2) of this section is new language added for clarity.

In subsection (a) of this section, the reference to a trial "or sentence" is added to reflect the holding of *Greco v. State*, 347 Md. 423 (1997) (after being granted a timely request for modifications or reduction of sentence, a defendant may file another request for modification or reduction of sentence within 90 days). *See also, Webster v. State*, 359 Md. 465 (2000).

The Criminal Procedure Article Review Committee notes, for consideration by the General Assembly, that in *Coley v. State*, 74 Md. App. 151 (1988) the Maryland Court of Special Appeals held that when a probation is revoked and resentencing occurs, the period in which the probationer may seek to modify the sentence should run from the date the resentencing was imposed. In subsection (b)(1) of this section, the General Assembly may wish to clarify that in cases where a resentencing has been imposed, the 10-year filing period runs from the date of the resentencing.

Defined term: "Person" § 1-101

7-104. REOPENING POSTCONVICTION PROCEEDING.

THE COURT MAY REOPEN A POSTCONVICTION PROCEEDING THAT WAS PREVIOUSLY CONCLUDED IF THE COURT DETERMINES THAT THE ACTION IS IN THE INTERESTS OF JUSTICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 645A(a)(2)(iii).

The former reference to the court may "in its discretion" reopen a postconviction proceeding is deleted as surplusage.

7-105. VICTIM'S AND REPRESENTATIVE'S RIGHTS OF NOTICE AND ATTENDANCE.

(A) RIGHT OF NOTICE.

BEFORE A HEARING IS HELD ON A PETITION FILED UNDER THIS TITLE, THE VICTIM OR VICTIM'S REPRESENTATIVE SHALL BE NOTIFIED OF THE HEARING AS PROVIDED UNDER § 11-104 OR § 11-503 OF THIS ARTICLE.

(B) RIGHT OF ATTENDANCE.

A VICTIM OR VICTIM'S REPRESENTATIVE IS ENTITLED TO ATTEND ANY HEARING UNDER THIS TITLE AS PROVIDED UNDER § 11-102 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 645A(h).

7-106. ALLEGATION OF ERROR.

(A) WHEN FINALLY LITIGATED.