

HOUSE BILL No. 1314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-25.5-8.

Synopsis: Postconviction proceedings. Establishes a procedure for postconviction relief.

Effective: July 1, 2026.

Ireland

January 6, 2026, read first time and referred to Committee on Courts and Criminal Code.



Introduced

Second Regular Session of the 124th General Assembly (2026)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2025 Regular Session of the General Assembly.

HOUSE BILL No. 1314

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-25.5-8 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2026]:

4 **Chapter 8. Postconviction Proceedings**

5 **Sec. 0.5. As used in this chapter, "public defender" means the**
6 **state public defender appointed under IC 33-40-1-1.**

7 **Sec. 1. (a) A person who has been convicted of, or sentenced for,**
8 **a crime by a court of this state, and who claims:**

9 **(1) that the conviction or the sentence was in violation of the**
10 **Constitution of the United States, the Constitution of the State**
11 **of Indiana, or the laws of this state;**

12 **(2) that the court was without jurisdiction to impose the**
13 **sentence;**

14 **(3) that the sentence exceeds the maximum sentence**
15 **authorized by law, or is otherwise erroneous;**

16 **(4) that there exists evidence of material facts that:**

17 **(A) could not have been discovered previously through the**



1 exercise of due diligence; and
2 (B) if proven and viewed in light of the evidence as a whole,
3 would be sufficient to establish by clear and convincing
4 evidence that no reasonable trier of fact would have found
5 the person guilty of the underlying offense;

13 may institute a postconviction proceeding under this chapter to
14 secure relief.

42 Sec. 2. (a) A person who claims relief under this chapter or who



1 otherwise challenges the validity of a conviction or sentence must
2 file a verified petition with the clerk of the court in which the
3 conviction took place, except that a person who claims that the
4 person's parole has been unlawfully revoked must file a verified
5 petition with the clerk of the court in the county in which the
6 person is incarcerated. Three (3) copies of the verified petition
7 must be filed and no deposit or filing fee shall be required.

8 (b) The clerk of the court shall file the petition upon its receipt
9 and deliver a copy to the prosecuting attorney of that judicial
10 circuit. In capital cases, the clerk of the court shall, in addition to
11 delivering a copy of the petition to the prosecuting attorney,
12 immediately deliver a copy of the petition to the attorney general.
13 If an affidavit of indigency is attached to the petition, the clerk of
14 the court shall call this to the attention of the court. If the court
15 finds that the petitioner is indigent, it shall allow the petitioner to
16 proceed in forma pauperis. If the court finds the indigent petitioner
17 is incarcerated in the department of correction, and has requested
18 representation, it shall order a copy of the petition sent to the
19 public defender.

20 Sec. 3. (a) The petition shall be submitted in a form in
21 substantial compliance with the standard form established by the
22 supreme court. The standard form shall be available without
23 charge from the public defender, who shall also see that the forms
24 are available at every penal institution in this state.

25 (b) The petition shall be made under oath and the petitioner
26 shall verify the correctness of the petition, the authenticity of all
27 documents and exhibits attached to the petition, and the fact that
28 the petitioner has included every ground for relief under section 1
29 of this chapter known to the petitioner.

30 (c) Documents and information excluded from public access
31 pursuant to the Indiana Rules on Access to Court Records shall be
32 filed in accordance with Trial Rule 5(G) of the Indiana Rules of
33 Trial Procedure.

34 Sec. 4. (a) Not later than thirty (30) days after the filing of the
35 petition, or within any further reasonable time the court may fix,
36 the state, by the attorney general in capital cases or by the
37 prosecuting attorney in noncapital cases, shall respond by answer
38 stating the reasons, if any, why the relief prayed for should not be
39 granted. The court may make appropriate orders for amendment
40 of the petition or answer, for filing further pleadings or motions,
41 or for extending the time of the filing of any pleading.

42 (b) Not later than ten (10) days after filing a petition for



1 **postconviction relief under this chapter, the petitioner may request**
2 **a change of judge by filing an affidavit that the judge has a**
3 **personal bias or prejudice against the petitioner. The petitioner's**
4 **affidavit shall state the facts and the reasons for the belief that this**
5 **bias or prejudice exists, and shall be accompanied by a certificate**
6 **from the attorney of record that the attorney in good faith believes**
7 **that the historical facts recited in the affidavit are true. A change**
8 **of judge shall be granted if the historical facts recited in the**
9 **affidavit support a rational inference of bias or prejudice. For good**
10 **cause shown, the petitioner may be permitted to file the affidavit**
11 **after the ten (10) day period. No change of venue from the county**
12 **shall be granted. In the event a change of judge is granted under**
13 **this section, the procedure set forth in Rule 21 of the Indiana**
14 **Administrative Rules shall govern the selection of a special judge.**

15 **(c) At any time prior to entry of judgment the court may grant**
16 **leave to withdraw the petition. The petitioner shall be given leave**
17 **to amend the petition as a matter of right no later than sixty (60)**
18 **days before the date the petition has been set for trial. Any later**
19 **amendment of the petition shall be by leave of the court.**

20 **(d) If the petition is challenging a sentence imposed following a**
21 **plea of guilty, the court shall make the transcript part of the**
22 **record.**

23 **(e) In the event that the petitioner's attorney files with the court**
24 **a withdrawal of appearance accompanied by an attorney's**
25 **certificate under section 9(c) of this chapter, the case shall proceed**
26 **in accordance with this chapter. The petitioner retains the right to**
27 **proceed pro se in forma pauperis if indigent. Thereafter, the court**
28 **may order the public defender to represent an indigent**
29 **incarcerated petitioner if the court makes a preliminary finding**
30 **that the proceeding is meritorious and in the interests of justice.**

31 **(f) If the public defender has filed an appearance, the public**
32 **defender has sixty (60) days to respond to the state's answer to the**
33 **petition filed under subsection (a). If the pleadings conclusively**
34 **show that the petitioner is entitled to no relief, the court may deny**
35 **the petition without further proceedings.**

36 **(g) The court may grant a motion by either party for summary**
37 **disposition of the petition if it appears from the pleadings,**
38 **depositions, answers to interrogatories, admissions, stipulations of**
39 **fact, and any affidavits submitted that there is no genuine issue of**
40 **material fact and the moving party is entitled to judgment as a**
41 **matter of law. The court may ask for oral argument on the legal**
42 **issue raised. If an issue of material fact is raised, then the court**



1 **shall hold an evidentiary hearing as soon as reasonably possible.**

2 **Sec. 5. The petition shall be heard without a jury. A record of**
3 **the proceedings shall be made and preserved. All rules and statutes**
4 **applicable in civil proceedings, including pretrial and discovery**
5 **procedures are available to the parties, except as provided in**
6 **section 4(b) of this chapter. The court may receive affidavits,**
7 **depositions, oral testimony, or other evidence and may at the**
8 **court's discretion order the applicant brought before the court for**
9 **the hearing. The petitioner has the burden of establishing the**
10 **petitioner's grounds for relief by a preponderance of the evidence.**

11 **Sec. 6. The court shall make specific findings of fact, and**
12 **conclusions of law on all issues presented, whether or not a hearing**
13 **is held. If the court finds in favor of the petitioner, the court shall**
14 **enter an appropriate order with respect to the conviction or**
15 **sentence in the former proceedings, and any supplementary orders**
16 **as to arraignment, retrial, custody, bail, discharge, correction of**
17 **sentence, or other matters that may be necessary and proper. An**
18 **order is a final judgment.**

19 **Sec. 7. An appeal may be taken by the petitioner or the state**
20 **from the final judgment in a proceeding under this chapter, under**
21 **rules applicable to civil actions. Jurisdiction for the appeal shall be**
22 **determined by reference to the sentence originally imposed. The**
23 **supreme court has exclusive jurisdiction in cases involving an**
24 **original sentence of death and the court of appeals has jurisdiction**
25 **in all other cases.**

26 **Sec. 8. (a) All grounds for relief available to a petitioner under**
27 **this chapter must be raised in the original petition.**

28 **(b) Any claim adjudicated on the merits in the proceeding that**
29 **resulted in the conviction or sentence, or in any other proceeding**
30 **the petitioner has taken to secure relief, shall be dismissed and may**
31 **not be a basis for postconviction relief under this chapter.**

32 **(c) Any claim that was not raised in the proceeding that resulted**
33 **in the conviction or sentence, or in any other proceeding the**
34 **petitioner has taken to secure relief, shall be dismissed and may not**
35 **be a basis for postconviction relief under this chapter unless:**

36 **(1) the petitioner's failure to raise the claim was caused by**
37 **state action in violation of the Constitution of the United**
38 **States or laws of the United States;**

39 **(2) the claim relies on a new rule of constitutional or statutory**
40 **law, made retroactive to cases on collateral review by the**
41 **United States Supreme Court or the supreme court, that was**
42 **previously unavailable; or**



(3) the claim is based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim in the proceeding that resulted in the conviction or sentence, or in any other proceeding the petitioner has taken to secure relief.

Sec. 9. (a) Upon receiving a copy of the petition, including an affidavit of indigency, from the clerk of the court, the public defender may represent any petitioner committed to the department of correction in all proceedings under this chapter, including an appeal, if the public defender determines the proceedings are meritorious and in the interests of justice. The public defender may refuse representation in any case where the conviction or sentence being challenged has no present penal consequences. The petitioner retains the right to employ the petitioner's own attorney or to proceed pro se, but the court is not required to appoint counsel for a petitioner other than the public defender.

(b) If a petitioner elects to proceed pro se, the court at its discretion may order the cause submitted upon affidavit. The court is not required to order the personal presence of the petitioner unless the petitioner's presence is required for a full and fair determination of the issues raised at an evidentiary hearing. If the pro se petitioner requests an issuance of a subpoena for a witness at an evidentiary hearing, the petitioner shall specifically state by affidavit the reason the witness' testimony is required and the substance of the witness' expected testimony. If the court finds the witness' testimony would be relevant and probative, the court shall order that the subpoena be issued. If the court finds the proposed witness' testimony is not relevant and probative, it shall enter a finding on the record and refuse to issue the subpoena. A petitioner who is indigent and proceeding in forma pauperis is entitled to production of guilty plea and sentencing transcripts at public expense, prior to a hearing, if the petition is not dismissed. In addition, the petitioner is also entitled to a record of the postconviction proceeding at public expense for appeal of the denial or dismissal of the petition.

(c) The petitioner's attorney shall confer with the petitioner and ascertain all grounds for relief under this chapter, amending the petition if necessary to include any grounds not included by petitioner in the original petition. In the event that the petitioner's attorney determines the proceeding is not meritorious or in the interests of justice, before or after an evidentiary hearing is held,



1 **the petitioner's attorney shall file with the court a withdrawal of**
2 **appearance, accompanied by a certification that:**

3 **(1) the petitioner has been consulted regarding grounds for**
4 **relief in the pro se petition and any other possible grounds;**
5 **and**

6 **(2) appropriate investigation, including a review of the guilty**
7 **plea or trial and sentencing records, has been conducted.**

8 The petitioner's attorney shall personally provide the petitioner
9 with an explanation of the reasons for withdrawal. A petitioner
10 retains the right to proceed pro se, in forma pauperis if indigent,
11 after the petitioner's attorney withdraws.

12 (d) In noncapital cases, the prosecuting attorney of the circuit
13 in which the court of conviction is situated shall represent the state
14 in the court of conviction. In capital cases, the attorney general
15 shall represent the state for purposes of answering the petition, and
16 the prosecuting attorney shall, at the request of the attorney
17 general, assist the attorney general. The attorney general shall
18 represent the state on any appeal arising from this chapter.

19 Sec. 10. (a) If:

20 **(1) a prosecution is initiated against a petitioner who has**
21 **successfully sought relief under this chapter and a conviction**
22 **is subsequently obtained; or**

23 **(2) a sentence has been set aside under this chapter and the**
24 **successful petitioner is to be resentenced;**

25 the sentencing court may not impose a more severe penalty than
26 the penalty originally imposed, unless the court includes in the
27 record of the sentencing hearing a statement of the court's reasons
28 for selecting the sentence that the court imposes. The statement
29 must include reliance upon identifiable conduct on the part of the
30 petitioner that occurred after the imposition of the original
31 sentence. The court shall give credit for time served.

32 (b) The provisions of subsection (a) that limit the severity of the
33 penalty do not apply if:

34 **(1) a conviction based upon a plea agreement is set aside;**
35 **(2) the state files an offer to abide by the terms of the original**
36 **plea agreement within twenty (20) days after the conviction is**
37 **set aside; and**

38 **(3) the defendant fails to accept the terms of the original plea**
39 **agreement within twenty (20) days after the state's offer to**
40 **abide by the terms of the original plea agreement is filed.**

41 Sec. 11. (a) A petitioner may request a second or successive
42 petition for postconviction relief by completing a properly and



1 legibly completed successive postconviction relief petition form in
2 substantial compliance with the form prescribed by the supreme
3 court. Both the successive postconviction relief petition form and
4 the proposed successive petition for postconviction relief shall be
5 sent to the clerk of the supreme court, court of appeals, and tax
6 court.

7 (b) A claim presented in a second or successive petition for
8 postconviction relief that was presented in a prior petition for
9 postconviction relief shall be dismissed.

10 (c) A claim presented in a second or successive petition for
11 postconviction relief that was not presented in a prior petition for
12 postconviction relief must be dismissed unless:

13 (1) the applicant shows that the claim relies on a new rule of
14 constitutional law, made retroactive to cases on collateral
15 review by the United States Supreme Court or the supreme
16 court, that was previously unavailable; or

17 (2) the factual predicate for the claim could not have been
18 discovered previously through the exercise of due diligence,
19 and the facts underlying the claim, if proven and viewed in
20 light of the evidence as a whole, would be sufficient to
21 establish by clear and convincing evidence that, but for
22 constitutional error, no reasonable trier of fact would have
23 found the applicant guilty of the underlying offense.

24 (d) The court may grant the application to file a second or
25 successive petition for postconviction relief and authorize the filing
26 of the petition only if it determines that the application makes a
27 prima facie showing that the petition satisfies the requirements of
28 this section. In making this determination, the court may consider
29 applicable law, the petition, and materials from the petitioner's
30 prior appellate and postconviction proceedings, including the
31 record, briefs and court decisions, and any other material the court
32 deems relevant.

33 (e) The court shall grant or deny the application to file a second
34 or successive petition for postconviction relief not later than thirty
35 (30) days after filing of the application, if the court fails to grant or
36 deny the application to file a second or successive petition for
37 postconviction relief within thirty (30) days after the filing of the
38 request, the request is denied without prejudice by operation of
39 law.

40 (f) A petitioner may not seek:
41 (1) rehearing; or
42 (2) transfer;



1 **based on the grant or denial of an application to file a second or**
 2 **successive petition for postconviction relief.**

3 (g) If the court authorizes the filing of a second or successive
 4 petition for postconviction relief, it must be filed in the court where
 5 the petitioner's first postconviction relief petition was adjudicated.
 6 The petition shall be considered by the same judge who
 7 adjudicated the first petition, if available. The petition shall be
 8 referred to the public defender, who may represent the petitioner
 9 in accordance with section 9 of this chapter. Authorization to file
 10 a second or successive petition is not a determination on the merits
 11 for any other purpose and does not preclude summary disposition
 12 under section 4 of this chapter.

13 (h) The circuit or superior court shall dismiss any claim
 14 presented in a second or successive petition for postconviction
 15 relief that a court has authorized to be filed unless the applicant
 16 shows that the claim satisfies the requirements of this section and
 17 the claim has been authorized in accordance with this section.

18 Sec. 12. A one (1) year period of limitation applies to a petition
 19 for postconviction relief filed in a noncapital case. The limitation
 20 period runs from the latest of:

- 21 (1) the date on which the judgment became final by the
 22 conclusion of direct review or the expiration of the time for
 23 seeking direct review;
- 24 (2) the date on which an impediment to filing an application
 25 created by state action in violation of the Constitution of the
 26 United States or laws of the United States is removed, if the
 27 applicant was prevented from filing by state action;
- 28 (3) the date on which the constitutional right asserted was
 29 initially recognized by the United States Supreme Court or
 30 the supreme court, if the right was newly recognized by the
 31 United States Supreme Court or the supreme court, and made
 32 retroactively applicable to cases on collateral review; or
- 33 (4) the date on which the factual predicate of the claim or
 34 claims presented could have been discovered through the
 35 exercise of due diligence.

36 Sec. 13. (a) Except as provided in subsection (b), a one hundred
 37 eighty (180) day period of limitation applies to a petition for
 38 postconviction relief filed in a capital case. The limitation period
 39 runs from the latest of:

- 40 (1) the date on which the judgment became final by the
 41 conclusion of direct review;
- 42 (2) the date on which an impediment to filing an application



1 **created by state action in violation of the Constitution of the**
2 **United States or laws of the United States is removed, if the**
3 **applicant was prevented from filing by state action;**

4 **(3) the date on which the constitutional right asserted was**
5 **initially recognized by the United States Supreme Court or**
6 **the supreme court, if the right was newly recognized by the**
7 **United States Supreme Court or the supreme court, and made**
8 **retroactively applicable to cases on collateral review; or**
9 **(4) the date on which the factual predicate of the claim or**
10 **claims presented could have been discovered through the**
11 **exercise of due diligence.**

12 **(b) The time requirements established by subsection (a) shall be**
13 **tolled to exclude the time period from the date that the petitioner**
14 **files a petition for certiorari in the United States Supreme Court**
15 **until the date of final disposition of the petition for certiorari, if the**
16 **petitioner filed a petition for certiorari seeking direct review of the**
17 **conviction or sentence.**

18 **Sec. 14. This chapter supersedes any other statute or court rule**
19 **governing postconviction relief.**

20 **Sec. 15. This chapter is severable in accordance with IC 1-1-1-8.**

