

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.



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



exercise of due diligence; and

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

(5) that the person's sentence has expired or that the person's probation, parole, or conditional release has been unlawfully revoked; or

(6) that the conviction or sentence is otherwise subject to collateral attack upon any grounds of alleged error available under any common law, statutory or other writ, motion, petition, proceeding, or remedy;

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

(b) This chapter is not a substitute for a direct appeal from the conviction or the sentence and all available steps, including those under Rule PC 2 of the Indiana Rules of Post-Conviction Remedies that should be taken to perfect the appeal. Except as otherwise provided in this chapter, this chapter comprehends and takes the place of all other common law, statutory, or other remedies otherwise available for challenging the validity of the conviction or sentence and it shall be used exclusively in place of them.

(c) This chapter does not suspend the writ of habeas corpus, but if a person applies for a writ of habeas corpus in the county where the person is incarcerated and challenges the validity of the conviction or sentence, the court in the county where the person is incarcerated shall transfer the cause to the court in which the conviction took place, and the convicting court shall treat it as a petition for relief under this chapter.

(d) A petition filed by a person who has been convicted or sentenced for a crime by a court of this state that seeks to require forensic DNA testing or analysis of any evidence, whether denominated as a petition filed under IC 35-38-7-5 or not, is considered a petition for postconviction relief.

(e) A petition seeking to present new evidence challenging the person's guilt or the appropriateness of the person's sentence, when brought by a person who has been sentenced to death and who has completed state postconviction review proceedings, whether denominated as a petition filed under IC 35-50-2-9(k) or not, is considered a successive petition for postconviction relief under section 11 of this chapter.

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



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

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

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

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



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

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

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

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

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

Sec. 10. (a) If:

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

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

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

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

(1) a conviction based upon a plea agreement is set aside;

(2) the state files an offer to abide by the terms of the original plea agreement within twenty (20) days after the conviction is set aside; and

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

Sec. 11. (a) A petitioner may request a second or successive 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.

