

Bill No.: HB0026 **Effective:** Immediately

LSO No.: 18LSO-0047

Enrolled Act No.: HEA No. 0044

Chapter No.: 77

Prime Sponsor: Joint Judiciary Interim Committee

Catch Title: **Post-conviction relief.**

Subject: Criminal procedure amendments allowing petition to establish factual innocence.

Summary/Major Elements:

- Current law provides that a convicted criminal defendant may appeal a conviction as provided by the Rules of Appellate Procedure. Unless a motion is based on DNA evidence, a motion for new trial based on newly discovered evidence must be filed within two (2) years of conviction.
- This act creates a new article “Post-Conviction Determination of Factual Innocence” that allows persons convicted of felonies to petition for exoneration based on newly discovered evidence at any time. This act specifies requirements of the petition and procedure, including service of process, victim notification, preservation of evidence, orders for forensic testing, and appointment of counsel. This act specifies that a court shall issue an order of exoneration if the petitioner proves factual innocence by clear and convincing evidence.
- This act also amends existing statutes by expanding a prisoner’s ability to file a petition for relief based on a constitutional violation during sentencing. Existing statute bars prisoners from litigating claims that are not raised on direct appeal or that have been previously decided. This act creates two additional exceptions to this bar: (1) when a prisoner’s appellate counsel was constitutionally ineffective; and (2) when the petitioner was represented by the same attorney at trial and on appeal.

The above summary is not an official publication of the Wyoming Legislature and is not an official statement of legislative intent. While the Legislative Service Office endeavored to provide accurate information in this summary, it should not be relied upon as a comprehensive abstract of the bill.
