

**Subject** Amending the standard for a petition for postconviction relief based on newly discovered evidence

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**Date** March 14, 2024

## Overview

A person convicted of a crime may file a direct appeal of that conviction. There are very few limits on what a person can argue in a direct appeal. If a person fails to bring an appeal, or if the time to bring a direct appeal expires, the person can bring a petition for postconviction relief. The arguments that can be raised in a petition for postconviction relief are much narrower and most petitions must be brought within two years. However, some situations involving newly discovered evidence – such as new DNA evidence – may be brought at any time. A petitioner has the burden to prove that the newly discovered evidence establishes, by a clear and convincing standard, that the petitioner is innocent of the offense.

This bill states that newly discovered evidence may serve as the basis for a petition for postconviction relief if it provides the factual predicate for one or more claims for relief. The bill also removes the requirement that a petitioner prove that the evidence establishes the person's innocence under the clear and convincing standard. It also extends the deadline for a county attorney to respond to a petition from 20 days to 45 days.

## Summary

Section	Description
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| 1 | <p><b>Time limit.</b></p> <p>Establishes that the two-year limit on when a person can bring a petition for postconviction relief does not apply if newly discovered evidence provides the factual predicate for one or more claims for relief. Removes the requirement that newly discovered evidence establishes that a petitioner is innocent of an offense by the clear and convincing standard.</p> |
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Section	Description
2	<p data-bbox="316 262 1427 294"><b>Pleadings and practice after filing a postconviction petition.</b></p> <p data-bbox="316 304 1427 382">Extends the deadline for a county attorney to respond to a petition for postconviction relief from 20 days to 45 days.</p>



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