

1 HOUSE JOINT RESOLUTION NO. 43

2 INTRODUCED BY G. PIERSON JR

3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 MONTANA REQUESTING AN INTERIM STUDY OF ALTERNATIVE METHODS TO CONDUCT
6 POSTCONVICTION RELIEF HEARINGS AND ANALYZE WHETHER TYPES OF EVIDENCE ARE EQUALLY
7 CONSIDERED WHEN DETERMINING POSTCONVICTION RELIEF; AND REQUIRING THAT THE FINAL
8 RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

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10 WHEREAS, the criminal justice system has an obligation to the citizens of Montana to utilize the most
11 effective system when conducting postconviction relief hearings and to ensure that all types of evidence are
12 gathered, investigated, and allowed fair consideration in order to secure not only the public's safety but also the
13 due process of those convicted; and

14 WHEREAS, the judicial system currently lacks oversight of postconviction hearings, and a study of the
15 methods and models available to evaluate the possible exoneration of those convicted of crime could create a
16 stronger, more robust system that allows for the smallest margin of error when reviewing the cases of those
17 persons already convicted by a jury; and

18 WHEREAS, many other states have instituted task forces or commissions to investigate in a neutral and
19 impartial manner the circumstances of a postconviction case, the admission of new evidence, the strength of
20 evidence submitted during the original trial, and the main reasons the person was originally convicted; and

21 WHEREAS, jury convictions are often overturned solely on new DNA evidence when more consideration
22 could be given to the possibility that the collection, application, and attribution of DNA evidence may be inherently
23 flawed; and

24 WHEREAS, DNA evidence may be considered circumstantial evidence and should not have a lesser
25 standard to prove a reasonable probability of a different outcome in postconviction relief requests than other
26 forms of evidence; and

27 WHEREAS, the judges who preside over postconviction hearings should allow all forms of evidence
28 available to the court that may create a reasonable probability of a different outcome at trial, including all pertinent
29 witness testimony as well as DNA evidence; and

30 WHEREAS, the equal use and application of various forms of evidence allowed in postconviction

1 hearings benefit from review and evaluation to ensure justice for both the convicted and the victims of crime and
2 their families; and

3 WHEREAS, the state would benefit from further research to evaluate the real or perceived bias that may
4 exist between different forms of evidence to ensure that rightful persons are released from prison and back into
5 the public.

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7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
8 STATE OF MONTANA:

9 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
10 section 5-5-217, MCA, to study alternative methods to conduct postconviction relief hearings and analyze whether
11 types of evidence are equally considered when determining postconviction relief.

12 BE IT FURTHER RESOLVED, that the study:

13 (1) examine alternative methods of conducting postconviction relief hearings, focusing on methods and
14 systems used in other states;

15 (2) consider the benefits of creating a task force or commission to examine and analyze original evidence
16 and information as well as potential new evidence available at the time of a postconviction hearing;

17 (3) identify current practices related to evidence collection, consideration, and acceptance into criminal
18 courts of jurisdiction;

19 (4) review national best practices related to the consideration of DNA evidence in postconviction relief
20 hearings; and

21 (5) if appropriate, develop a committee bill to address any inefficiencies identified in the committee's
22 findings and recommendations.

23 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
24 requirements, be concluded prior to September 15, 2020.

25 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
26 comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

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