

Wyoming Liberty Index

62nd Wyoming Legislature ★ 2014 Budget Session

SF0028, Post-conviction actual innocence.

Sponsors: Joint Judiciary Interim Committee

Aye votes: Representatives Baker, Barlow, Berger, Blake, Blevins, Blikre, Brown, Burkhart, Byrd, Campbell, Cannady, Coleman, Connolly, Davison, Esquibel, K., Filer, Freeman, Gay, Gingery, Goggles, Greene, Halverson, Harshman, Harvey, Hunt, Hutchings, Kasperik, Kirkbride, Kroeker, Krone, Larsen, Lockhart, Loucks, Lubnau, Madden, Mader, Miller, Moniz, Nicholas, B., Northrup, Patton, Paxton, Petroff, Piiparinen, Reeder, Semlek, Sommers, Throne, Walters, Watt, Wilson, Winters, Zwonitzer, Dn. and Zwonitzer, Dv. Senators Anderson, JD S02, Anderson, JL S28, Barnard, Bebout, Burns, Case, Christensen, Coe, Cooper, Craft, Dockstader, Driskill, Emerich, Esquibel, F., Geis, Hastert, Hicks, Hines, Johnson, Landen, Meier, Nicholas, P., Nutting, Peterson, Rothfuss, Schiffer, Scott and Von Flatern

Nay votes: Representatives Eklund, Greear, Jaggi, McKim, Stubson and Teeters Senators Perkins and Ross

Comments

Allows a person convicted of a crime who is "actually innocent" to bring a motion for a new trial. This adds proper due process for a situation that has recurred too often to ignore.

U: The fiscal impact to the judicial system is indeterminable due to an unknown number of cases. This bill is something of a mixed bag. On one hand, it moves to make it practical for persons wrongfully convicted to assert their innocence. Thomas Jefferson would approve, "Better that one hundred criminals go free than one innocent man be convicted." On the other hand, it makes a point of reaffirming the immunity of those officials that may have contributed to a wrongful conviction. Looking at the listed exceptions, it appears that peace officers can be liable for tortious behavior that leads to a wrongful conviction, but judges and prosecuting attorneys are the beneficiary of complete sovereign immunity no matter how egregious their tortious behavior may be. Prosecutors, at least, should have "skin in the game" — if someone is charged with 100 crimes but convicted of only one, the state should have to pay 99% of his legal fees. This would discourage overcharging. (So would judicial oversight, but we've seen little enough of that.) Second, plea-bargain offers should be disclosed at trial, so that judges and juries can understand just how serious the state really thinks the offense is. And finally, prosecutors should be stripped of their absolute immunity to suit — an immunity commonly created by judicial activism, not by statute — and should be subject to civil damages for misconduct such as withholding evidence. If our criminal justice system is to be a true justice system, then due process must attach at all stages. Right now, prosecutors can run riot. That needs to change! This bill makes an important step in the right direction and then takes an equally big step backward by failing to address what can be an important source of wrongful convictions in the first place. Taken as a whole, we'll have to grit our teeth and rate this as Liberty neutral thus taking the chance that nobody will read this comment.

Weighted Rating: 1.00. Unweighted Rating: 1.00.

Categories

General Government, Individual Rights, and Spirit and Letter of Founding Documents

For more information on the categories:

<http://wyominglibertyindex.info/2014/methodology.html#thecategories>

Document Status

Final

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