

JAN 22 2008

A BILL FOR AN ACT

RELATING TO HABEAS CORPUS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 660, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§660- Limitations on habeas corpus. (a) Every claim
5 with respect to conviction, custody, and prison conditions
6 under this section or any other state or federal law,
7 regulation, or rule brought by a prisoner confined in any jail,
8 prison, or other correctional facility, shall be forever barred
9 unless the habeas corpus proceeding is commenced within five
10 years after the claim first accrues.

11 (b) The limitation period shall run from the last of:

12 (1) The date on which the judgment became final by the
13 conclusion of direct review or the expiration of the
14 time for seeking such review;

15 (2) The date on which the impediment to filing an
16 application created by a governmental action in
17 violation of the Constitution of the State of Hawaii
18 or the Constitution of the United States that

1 prevented the filing of the petition for post-
2 conviction relief was removed;

3 (3) The date on which a newly created constitutional rule
4 under the Constitution of the State of Hawaii or the
5 Constitution of the United States was initially
6 recognized and made retroactively applicable to cases
7 on collateral review by the supreme court of the
8 State of Hawaii or the Supreme Court of the United
9 States; or

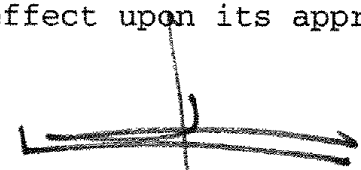
10 (4) The date on which the factual predicate of the claim
11 or the claims presented could have been discovered
12 through the exercise of due diligence.

13 (c) As used in this chapter, the term "prisoner" means any
14 person incarcerated or detained in any facility who is accused of,
15 convicted of, sentenced for, or adjudicated delinquent for
16 violations of criminal law or the terms and conditions of parole,
17 probation, pretrial release, or diversionary program."

18 SECTION 2. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its approval.

21 INTRODUCED BY:



BY REQUEST

S.B. NO. 2967

Report Title:
HABEAS CORPUS.

Description:
Places time limits on claims challenging criminal convictions,
prison conditions, and related matters.

JUSTIFICATION SHEET

DEPARTMENT: ATTORNEY GENERAL

TITLE: A BILL FOR AN ACT RELATING TO HABEAS CORPUS.

PURPOSE: To establish a statute of limitations for the filing of habeas corpus actions challenging convictions, judgments, sentences, and other matters related to custody.

MEANS: Add a new section to chapter 660, Hawaii Revised Statutes.

JUSTIFICATION: In addition to a direct appeal to the Intermediate Court of Appeals and the Hawaii Supreme Court and the filing of a writ of habeas corpus with the United States District Court, individuals convicted of crimes in state courts may also challenge their convictions, sentences, and other matters related to custody by filing in state courts petitions for post-conviction relief pursuant to Hawaii Rules of Penal Procedure Rule 40 and chapter 660, Hawaii Revised Statutes. Currently, there is no statute of limitations on petitions for post-conviction relief. Defendants can, and do, file challenges to their convictions and custody long after the actual events at issue, making it difficult to address the merits of the challenges and, if necessary, to hold retrials or new hearings. Establishing a five-year statute of limitations, would ensure that challenges to convictions and matters of custody could be reviewed and decided when the record and witnesses are more likely to remain available. In comparison, there is a one-year statute of limitations on the filing of a federal writ of habeas corpus, with numerous tolling periods for various reasons. The Permanent Committee on Rules of Penal Procedure and Circuit Court Criminal Rules recently proposed amending

Rule 40 of the Hawaii Rules of Penal Procedure to add a statute of limitations as in this bill, but the Hawaii Supreme Court rejected the proposal, indicating, in part, that this was a matter for the legislature.

Impact on the public: There should be a positive impact on the public as it promotes finality to convictions and sentences in a more reasonable timeframe. Further, in the event that reconsiderations or retrials are found to be necessary, evidence is more likely to be intact closer to the time of the offense involved.

Impact on the department and other agencies: The department, the various county prosecuting attorney(s) offices and the Judiciary should benefit from an anticipated drop in the filing of petitions for post-conviction relief and a focusing of resources on current relevant issues.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Judiciary and the various county prosecuting attorney(s) offices.

EFFECTIVE DATE: Upon approval.