

JAN 23 2008

A BILL FOR AN ACT

RELATING TO POST CONVICTION PROCEEDINGS.

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

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

4 "§660- Time limits. A five-year period of limitation
5 shall apply to a complaint filed under this chapter. The
6 limitation period shall run from the last of:

- 7 (1) The date on which the judgment became final by the
8 conclusion of direct review or the expiration of the
9 time for seeking such review;
- 10 (2) The date on which the impediment was removed that
11 prevented filing a complaint created by a governmental
12 action in violation of the Constitution of the State
13 of Hawaii or the Constitution of the United States;
- 14 (3) The date on which a newly created constitutional rule
15 under the Constitution of the State of Hawaii or the
16 Constitution of the United States was initially
17 recognized and made retroactively applicable to cases



1 on collateral review by the supreme court of the State
2 of Hawaii or the Supreme Court of the United States;

3 or

4 (4) The date on which the factual predicate of the claim
5 or claims presented could have been discovered through
6 the exercise of due diligence; and the newly
7 discovered evidence, if proven and viewed in light of
8 the evidence as a whole, would be sufficient to
9 establish by a preponderance of the evidence that no
10 reasonable fact finder would have found the petitioner
11 guilty of the offense.

12 **§660- Successive petitions.** A claim presented in a
13 second or successive complaint filed under this chapter that was
14 not presented in a prior complaint shall be dismissed unless:

15 (1) The petitioner shows that the claim relies on a
16 previously unavailable new rule of constitutional law
17 under the Constitution of the State of Hawaii or the
18 Constitution of the United States, made retroactive to
19 cases on collateral review by the supreme court of the
20 State of Hawaii or the Supreme Court of the United
21 States; or



1 (2) The factual basis for the claim could not have been
2 discovered previously through the exercise of due
3 diligence, and the facts underlying the claim, if
4 proven and viewed in light of the evidence as a whole,
5 would be sufficient to establish by clear and
6 convincing evidence that, but for the constitutional
7 error, no reasonable fact finder would have found the
8 applicant guilty of the underlying offense."

9 SECTION 2. New statutory material is underscored.

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

11

INTRODUCED BY:

[Handwritten Signature]
by request



Report Title:

Post Conviction Proceedings; Procedure

Description:

Establishes time limits for filing habeas corpus complaints and limits successive complaints.

