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# 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 limitation. (a) Any complaint filed under  
5 this chapter or a petition for post-conviction relief filed  
6 under the Hawaii rules of penal procedure shall be filed within  
7 five years of the latter of:

8           (1) The date on which the judgment became final by the  
9           conclusion of direct review or the expiration of the  
10           time for seeking such review;

11           (2) The date on which an impediment to filing a complaint  
12           that was created by a governmental action, in  
13           violation of the Constitution of the State of Hawaii  
14           or the Constitution of the United States, was removed;

15           (3) The date on which a newly created constitutional rule  
16           under the Constitution of the State of Hawaii or the  
17           Constitution of the United States was initially



1 recognized and made retroactively applicable to cases  
2 on collateral review by the supreme court of the State  
3 of Hawaii or the Supreme Court of the United States;  
4 or

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

13 (b) This section shall not apply to any motion, petition,  
14 or appeal filed pursuant to part XI of chapter 844D.

15 **§660- Successive petitions.** A claim presented in a  
16 second or successive complaint filed under this chapter that was  
17 not presented in a prior complaint shall be dismissed unless:

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



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

11       SECTION 2. New statutory material is underscored.

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



**Report Title:**

Post Conviction Proceedings; Procedure

**Description:**

Establishes a time limitation for filing habeas corpus complaints and post-conviction judicial proceedings. Limits successive complaints. (SB3204 SD1)

