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

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

17 (1) The petitioner shows that the claim relies on a
18 previously unavailable new rule of constitutional law
19 under the Constitution of the State of Hawaii or the
20 Constitution of the United States, made retroactive to
21 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.

13

INTRODUCED BY: _____

[Handwritten signature]
By Request

JAN 25 2012



H.B. NO. 2829

Report Title:

Post Conviction Proceedings; Procedure

Description:

Establishes a time limitation for filing habeas corpus complaints and post-conviction judicial proceedings. Limits the addition of new claims in successive complaints.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

