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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 limits. (a) Any complaint filed under this  
5 chapter shall be filed within five years of the date on which:

6           (1) The judgment became final by the conclusion of direct  
7           review or the expiration of the time for seeking the  
8           review;

9           (2) The impediment was removed that prevented filing a  
10           complaint created by a governmental action in  
11           violation of the Constitution of the State of Hawaii  
12           or the Constitution of the United States;

13           (3) A newly created constitutional rule under the  
14           Constitution of the State of Hawaii or the  
15           Constitution of the United States was initially  
16           recognized and made retroactively applicable to cases  
17           on collateral review by the supreme court of the State



1 of Hawaii or the Supreme Court of the United States;

2 or

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

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

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 on July 1, 2050.



**Report Title:**

Post Conviction Proceedings; Procedure; Time Limits

**Description:**

Establishes time limits for filing habeas corpus complaints and limits successive complaints. Provides an exemption from the time limits for any motion, petition, or appeal filed pursuant to part XI, of chapter 844D, Hawaii Revised Statutes. Effective 07/01/50. (SD1)

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

