
A BILL FOR AN ACT

RELATING TO WRONGFUL CONVICTIONS.

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

1 SECTION 1. Chapter 641, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . POST-CONVICTION REVIEW

5 §641- Habeas corpus for post-conviction review. (a)

6 Any person imprisoned or restrained of their liberty, under any
7 pretense, may petition for a writ of habeas corpus for
8 post-conviction review to inquire into the cause of the
9 imprisonment or restraint.

10 (b) A person may petition a court of competent
11 jurisdiction for a writ of habeas corpus for post-conviction
12 review by asserting the following:

13 (1) False evidence that is substantially material or
14 probative on the issue of guilt or punishment was
15 introduced against the person at a hearing or trial
16 relating to the person's incarceration;



- 1 (2) An opinion of an expert that has either been
2 repudiated by the expert who originally provided the
3 opinion at a hearing or trial or that has been
4 undermined by further scientific knowledge or later
5 scientific research or technological advances was a
6 material factor directly related to a plea of guilty
7 by the person or a conviction of the person;
- 8 (3) New evidence has been discovered after trial, that
9 could not have been discovered prior to trial by the
10 exercise of due diligence, and is admissible and not
11 merely cumulative, corroborative, collateral, or
12 impeaching, and is likely to have changed the outcome
13 of the trial; or
- 14 (4) A significant dispute has emerged or further developed
15 in the person's favor regarding expert medical,
16 scientific, or forensic testimony that was introduced
17 at trial and contributed to the conviction, is likely
18 to have changed the outcome at trial, including:
- 19 (A) Any conclusion or the scientific, forensic, or
20 medical facts upon which the conclusion is based;



1 (B) The reliability or validity of the diagnosis,
2 technique, methods, theories, research, or
3 studies upon which a medical, scientific or
4 forensic expert based their testimony; and
5 (C) Information from credible expert testimony or
6 declaration, or by peer-reviewed literature
7 showing that experts in the relevant medical,
8 scientific, or forensic community, substantial in
9 number or expertise, have concluded that
10 developments have occurred that undermine the
11 reliability or validity of the diagnosis,
12 technique, method, theory, research, or study
13 upon which a medical, scientific, or forensic
14 expert based their testimony.

15 (c) In assessing whether a dispute is significant, the
16 court shall give great weight to evidence that a consensus has
17 developed in the relevant medical, scientific, or forensic
18 community undermining the reliability or validity of the
19 diagnosis, technique, methods, theories, research, or studies
20 upon which a medical, scientific, or forensic expert based their
21 testimony or that there is a lack of consensus as to the



1 reliability or validity of the diagnosis, technique, methods,
2 theories, research, or studies upon which a medical, scientific,
3 or forensic expert based their testimony.

4 (d) The supreme court shall establish rules regarding the
5 form and content of the petition, the respondent to the
6 petition, a hearing on the petition, disposition and review of
7 the petition, and referral to the public defender if the person
8 is indigent.

9 (e) This section does not:

- 10 (1) Change the existing procedures for habeas relief; or
11 (2) Limit the grounds for which a writ of habeas corpus
12 may be prosecuted or preclude the use of any other
13 remedies.

14 (f) This section shall not create additional liabilities,
15 beyond those already recognized, for an expert who repudiates
16 the original opinion provided at a hearing or trial or whose
17 opinion has been undermined by scientific research,
18 technological advancements, or because of a reasonable dispute
19 within the expert's relevant scientific community as to the
20 validity of the methods, theories, research, or studies upon
21 which the expert based their opinion."



1 SECTION 2. Chapter 641, Hawaii Revised Statutes, is
2 amended by amending the title to read as follows:

3 "CHAPTER 641

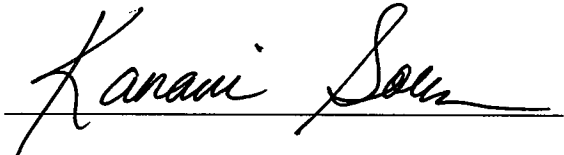
4 APPEALS AND POST-CONVICTION REVIEW"

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY:



JAN 25 2023



H.B. NO. 1325

Report Title:

Post-Conviction Review; Habeas Corpus; Criminal Conviction

Description:

Sets forth requirements under which a convicted person may seek review for a criminal conviction.

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

