
A BILL FOR AN ACT

RELATING TO REDRESS FOR WRONGFUL CONVICTION AND IMPRISONMENT.

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

1 SECTION 1. The legislature finds that Act 156, Session
2 Laws of Hawaii 2016, was enacted to monetarily compensate
3 individuals who had been wrongfully convicted and imprisoned in
4 the Hawaii criminal justice system. The Act created chapter
5 661B, Hawaii Revised Statutes, which is entitled "Redress for
6 Wrongful Conviction and Imprisonment", and through which the
7 compensation scheme has been effect for eight years.

8 In enacting Act 156, the legislature found that individuals
9 who were wrongfully convicted and imprisoned by the State
10 deserved "an avenue of redress over and above the existing tort
11 remedies to seek compensation for damages from the jurisdiction
12 that convicted and imprisoned them". Pursuant to section
13 661B-3(b), Hawaii Revised Statutes, if a court finds that a
14 person has proven a claim for wrongful conviction and
15 imprisonment, the court is to award the person \$50,000 for each
16 year of actual confinement, including time spent awaiting trial.
17 The legislature recognizes that although the process does not



1 explicitly require a court trial to determine if a petitioner is
2 entitled to compensation and the amount of compensation, in
3 practice, petitioners have been subjected to lengthy trials.

4 The legislature also recognizes the recent Hawai'i supreme
5 court decision in *Jardine v. Hawai'i*, 155 Haw. 60 (2024). The
6 court considered the language of section 661B-1, Hawaii Revised
7 Statutes, which in part requires that a petitioner's judgment of
8 conviction be reversed or vacated "because the petitioner was
9 actually innocent of the crimes for which the petitioner was
10 convicted, and the court decision so states". The supreme court
11 held that the statute does not require the exact words "actual
12 innocence" to appear in the order. However, the court also held
13 that the statute "does, however, require that such an order
14 state a finding that supports a petitioner's 'actual innocence'
15 - that is, the order should support the conclusion that the
16 petitioner did not commit the crime".

17 The purpose of this Act is to make improvements to the
18 State's wrongful imprisonment compensation law.

19 SECTION 2. Chapter 661B, Hawaii Revised Statutes, is
20 amended by adding four new sections to be appropriately
21 designated and to read as follows:



1 "§661B- Liberal construction. This chapter shall be
2 liberally construed to ensure that those persons who were
3 wrongfully convicted and imprisoned by the State receive
4 compensation.

5 §661B- Notice of the right to petition. The State shall
6 provide written notice of the ability to file a claim under this
7 chapter to any person:

- 8 (1) Whose judgment of conviction was reversed or vacated,
9 and the corresponding order included a finding that
10 supports the conclusion that the person did not commit
11 the crime upon which that conviction was based; or
12 (2) Who was pardoned and the pardon included information
13 that supports the conclusion that the person did not
14 commit the crime for which the person was convicted.

15 §661B- Presumption of entitlement. A petition for
16 relief filed under this chapter for a person:

- 17 (1) Whose judgment of conviction was reversed or vacated,
18 and the corresponding order included a finding that
19 supports the conclusion that the person did not commit
20 the crime upon which that conviction was based; or



1 (2) Who was pardoned and the pardon included information
2 that supports the conclusion that the person did not
3 commit the crime for which the person was convicted,
4 shall be presumptively valid.

5 §661B- Procedure upon reversal or vacation of
6 conviction. Upon the reversal or vacation of a judgment of
7 conviction with a corresponding order that included a finding
8 that supports the conclusion that the person did not commit the
9 crime upon which that conviction was based, the court shall
10 inquire whether the person wishes to seek relief pursuant to
11 chapter 661B. If the answer is affirmative, a petition shall be
12 deemed to have been filed that satisfies section 661B-2. The
13 court shall indicate the filing on the record and provide notice
14 of the deemed petition to the appropriate county prosecutor and
15 the attorney general.

16 The petition shall be held in abeyance for two weeks. If
17 after two weeks, a county prosecutor or the attorney general has
18 not brought, or announced that it will bring, new charges
19 against the petitioner, the petition shall be deemed admitted by
20 the attorney general and that the petitioner is entitled
21 compensation. The court may appoint an attorney for the



1 petitioner if the court determines that the interests of justice
2 require one be appointed.

3 Within seven days of service of the petition, the State
4 shall make a payment of \$5,000 to the petitioner. Subsequently,
5 on the first day of every month, the State shall make a payment
6 of \$5,000 to the petitioner until the State has paid in the
7 aggregate an amount equal to the payment for one year of
8 imprisonment, as specified in section 661B-3(c). Any advance
9 compensation paid to the petitioner shall be deducted from any
10 compensation to which the petitioner is entitled under this
11 chapter. If the petition is subsequently denied, the petitioner
12 shall not need to repay any funds disbursed."

13 SECTION 3. Section 661B-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§661B-2[+] **Presentation of claim.** (a) A petition for
16 relief filed pursuant to this chapter shall be filed in the
17 circuit court of the circuit in which the petitioner lives, or
18 if the petitioner lives outside the State, in the circuit court
19 of the first circuit. The petitioner shall serve the petition
20 upon the attorney general, and if the prosecuting authority was
21 other than the attorney general, upon the prosecuting authority.



1 The petition shall set forth the facts and authority that
2 support the petitioner's claim.

3 (b) The State shall pay advance compensation to any
4 petitioner who was convicted in a court of the State and
5 imprisoned for at least one year, and who files a petition that
6 supports the conclusion that the petitioner did not commit the
7 crime for which the person was convicted; provided that neither
8 the State nor a county prosecutor have filed new charges based
9 on the same alleged act or acts for which the petitioner was
10 originally convicted. Within seven days of service of the
11 petition, the State shall make a payment of \$5,000 to the
12 petitioner. Subsequently, on the first day of every month, the
13 State shall make a payment of \$5,000 to the petitioner, until
14 the State has paid in the aggregate an amount equal to the
15 payment for one year of imprisonment, as specified in section
16 661B-3(c); provided the payments shall cease if the State or a
17 county prosecutor files new charges based on the same alleged
18 act or acts for which the petitioner was originally convicted.
19 Any advance compensation paid to the petitioner shall be
20 deducted from any compensation to which the petitioner is
21 entitled under this chapter. If the petition is subsequently



1 denied, the petitioner shall not be required to repay any funds
2 disbursed.

3 ~~[(b)]~~ (c) No later than sixty days after service, the
4 attorney general shall file with the court an answer that shall
5 either admit that the petitioner is entitled to compensation or
6 deny the petitioner's claim.

7 If the attorney general admits that the petitioner is
8 entitled to compensation, the court shall conduct a trial to
9 determine the amount of compensation; provided that if the
10 attorney general and the petitioner agree on the amount of the
11 compensation, the court may issue a final judgment awarding the
12 petitioner the amount agreed upon or, in its discretion, conduct
13 a trial to determine the amount to award the petitioner.

14 If the attorney general denies that the petitioner is
15 entitled to compensation, then the court shall conduct a trial
16 to determine if the petitioner is entitled to compensation and
17 the amount, if any.

18 ~~[(e)]~~ (d) Notwithstanding any other provision of law to
19 the contrary, no person shall be allowed to intervene in the
20 proceeding; provided that if the attorney general did not obtain
21 the conviction of the petitioner, then the prevailing



1 prosecuting authority may state its position on the petitioner's
2 claim in a statement to the court. If the attorney general did
3 not obtain the conviction of the petitioner, then the prevailing
4 prosecuting authority shall provide the attorney general with
5 any information or assistance that the attorney general may
6 request.

7 ~~(d)~~ (e) Any action against the State under this chapter
8 shall be tried by the court without a jury; provided that the
9 court, with the consent of all the parties, may order a trial
10 with a jury whose verdict shall have the same effect as if trial
11 by jury had been a matter of right."

12 SECTION 4. No later than forty days before the convening
13 of each of the regular sessions of 2026, 2027, and 2028, the
14 department of the attorney general shall submit to the
15 legislature a report on the status of all petitions filed under
16 chapter 661B, Hawaii Revised Statutes. The report shall
17 include, for each petition:

- 18 (1) The name of the petitioner;
19 (2) The date the petition was filed and the circuit in
20 which it was filed;



- 1 (3) Whether the department granted or denied the petition,
2 and the date the department's response was filed;
- 3 (4) Whether any compensation has been made to the
4 petitioner, including any compensation pursuant to
5 section 661B-2(b), Hawaii Revised Statutes, and the
6 dates of the compensation, if any; and
- 7 (5) The current status of the petition.

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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



Report Title:

Wrongful Convictions; Civil Remedies; Redress; Compensation

Description:

Requires the State to provide written notice to certain persons regarding the ability to file a claim for redress under applicable wrongful conviction law. Requires the liberal construction of that law. Establishes procedures upon reversal or vacation of conviction. Provides for advance compensation for petitioners under certain circumstances. Requires reports to Legislature from the Department of the Attorney General.
(Proposed SD1)

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

