
A BILL FOR AN ACT

RELATING TO CRIMINAL DEFENSE.

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- Post-conviction proceedings; time limitation.

5 (a) Any complaint filed under this chapter for post-conviction
6 relief or any post-conviction judicial proceedings filed under rule
7 40 of the Hawaii rules of penal procedure shall be filed within
8 five years of the latest of the following:

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

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



1 (3) The date on which a newly created constitutional rule
2 under the Constitution of the State of Hawaii or the
3 Constitution of the United States was initially
4 recognized and made retroactively applicable to cases
5 on collateral review by the supreme court of the
6 State of Hawaii or the Supreme Court of the United
7 States; or

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

16 (b) Notwithstanding subsection (a)(1), those offenders
17 convicted before July 1, 2019, shall have five years from July
18 1, 2019, to file an action for post-conviction relief.

19 (c) This section shall not apply to any motion, petition,
20 or appeal filed pursuant to part XI of chapter 844D.



1 §660- Post-conviction proceedings; successive complaints
2 or petitions. A claim presented in a second or successive
3 complaint filed under this chapter for post-conviction relief or a
4 second or successive petition under rule 40 of the Hawaii rules of
5 penal procedure that was not presented in a prior complaint or
6 petition shall be dismissed unless:

- 7 (1) The complainant or petitioner shows that the claim
8 relies on a previously unavailable new rule of
9 constitutional law under the Constitution of the State
10 of Hawaii or the Constitution of the United States, made
11 retroactive to cases on collateral review by the supreme
12 court of the State of Hawaii or the Supreme Court of the
13 United States; or
- 14 (2) The factual basis for the claim could not have been
15 discovered previously through the exercise of due
16 diligence, and the facts underlying the claim, if proven
17 and viewed in light of the evidence as a whole, would be
18 sufficient to establish by clear and convincing evidence
19 that, but for the constitutional error, no reasonable
20 fact finder would have found the applicant guilty of the
21 underlying offense."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2019.



Report Title:

Post-Conviction Proceedings; Procedure

Description:

Establishes a time limitation for filing habeas corpus complaints and petitions for post-conviction judicial proceedings. Limits successive complaints. (SB2 HD1 PROPOSED)

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

