

636
STAND. COM. REP. NO.

Honolulu, Hawaii

FEB 14 2025

RE: S.B. No. 169
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 169 entitled:

"A BILL FOR AN ACT RELATING TO REDRESS FOR WRONGFUL
CONVICTION AND IMPRISONMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to make
improvements to the State's wrongful imprisonment compensation
law.

Your Committee received testimony in support of this measure
from the Office of the Public Defender and one individual.

Your Committee received testimony in opposition to this
measure from one individual.

Prior to the hearing on this measure, your Committee posted
and made available for public review a proposed S.D. 1, which
amends this measure by:

- (1) Deeming a petition for relief filed under chapter 661B,
Hawaii Revised Statutes, that meets certain conditions
to be presumptively valid;



- (2) Establishing a procedure upon reversal of or vacating of a conviction under chapter 661B, Hawaii Revised Statutes;
- (3) Allowing a petitioner who receives advance compensation for a claim filed under section 661B-2, Hawaii Revised Statutes, to keep any funds already disbursed if the petition is subsequently denied; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee received testimony in support of the proposed S.D. 1 from the Hawai'i Innocence Project and Community Alliance on Prisons.

Your Committee received testimony in opposition to the proposed S.D. 1 from the Department of the Attorney General.

Your Committee finds that innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have been uniquely victimized by the State and deserve an avenue of redress that is fair, timely, and certain. Your Committee also finds that no claims have been paid by the State to wrongfully convicted persons in the eight years since the enactment of Act 156, Session Laws of Hawaii 2016. It is thus the goal of this measure to make improvements to the State's wrongful imprisonment compensation law.

Your Committee notes that claims for compensation for wrongful conviction and imprisonment are a potential liability for the State. Instead of letting these claims languish for years, your Committee believes that these claims should be addressed and paid in a timely manner, thereby giving certainty to the budgeting process.

Your Committee has amended this measure by retaining the original version of this measure but:

- (1) Specifying that the Department of Corrections and Rehabilitation is required to provide the notice to the person of the ability to file a claim under chapter



661B, Hawaii Revised Statutes (HRS), and requiring that the notice:

- (A) Contain the filing deadline; and
 - (B) Include copies of the statutory sections related to the filing requirements and a copy of the person's order or pardon;
- (2) Changing the requirement for relief under chapter 661B, HRS, to require that the petitioner's conviction was reversed or vacated or the petitioner was pardoned on grounds consistent with innocence, rather than actual innocence;
 - (3) Establishing a procedure upon reversal of or vacating of a conviction under chapter 661B, HRS, that requires the court to make certain findings regarding the petitioner's eligibility for relief;
 - (4) Clarifying that the court providing notice of a petitioner's deemed petition for relief to the appropriate county prosecutor and the Attorney General satisfies service requirements;
 - (5) Specifying that the court must provide an order to the Comptroller to commence advance compensation payments;
 - (6) Clarifying that, when a petition is deemed admitted by the Attorney General, the court is required to award compensation pursuant to section 661B-3, HRS, minus any advance payment made to the petitioner;
 - (7) Clarifying that a person whose conviction was reversed or vacated with prejudice is deemed innocent and entitled to compensation under chapter 661B, HRS, minus any advance payment to the petitioner;
 - (8) Specifying that the Comptroller must issue a warrant on the first of each month for a payment of \$5,000 to the petitioner until the State has paid in aggregate an amount equal to a payment of one year of imprisonment;



636

- (9) Specifying that advance payments to a petitioner under chapter 661B, HRS, must cease if the Attorney General or county prosecuting attorney files new charges against the petitioner based on the same alleged act or acts for the petitioner's original conviction;
- (10) Allowing a petitioner who receives advance compensation for a claim filed under section 661B-2, HRS, to keep any funds already disbursed if the petition is subsequently denied;
- (11) Shifting the burden of proof from the petitioner to the State and requiring the State to prove by a preponderance of the evidence that the reversal or vacating of the conviction for a petitioner, or the pardoning of the petitioner, was inconsistent with innocence;
- (12) Making confirming amendments;
- (13) Inserting additional legislative findings; and
- (14) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 169, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,




KARL RHOADS, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 169</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JDC, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/11/25</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
CHANG, Stanley	✓			
SAN BUENAVENTURA, Joy A.				✓
AWA, Brenton	✓			
TOTAL	4	—	—	1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-top: 10px;">  </div>				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes