

AMENDED IN ASSEMBLY AUGUST 17, 2015

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SENATE BILL

No. 694

**Introduced by Senator Leno
(Coauthor: Senator Anderson)**

February 27, 2015

An act to amend Sections 1473, 1485.5, and 1485.55 of the Penal Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Leno. New evidence: habeas corpus: motion to vacate judgment: indemnity.

Existing law allows every person who is unlawfully imprisoned or restrained of his or her liberty to prosecute a writ of habeas corpus to inquire into the cause of his or her imprisonment or restraint. Existing law allows a writ of habeas corpus to be prosecuted for, but not limited to, false evidence that is substantially material or probative to the issue of guilt or punishment that was introduced at trial and false physical evidence which was a material factor directly related to the plea of guilty of the person.

This bill would additionally allow a writ of habeas corpus to be prosecuted on the basis of new evidence that is credible, material, *presented without substantial delay*, and of such decisive force and value that it would have more likely than not changed the outcome at trial.

Existing law requires the California Victim Compensation and Government Claims Board to recommend an appropriation be made by

the Legislature for the purpose of indemnifying a person if the evidence shows that a crime with which the person was charged was either not committed at all, or, if committed, was not committed by that person. Existing law requires that the appropriation recommended shall be a sum equivalent to \$100 per day of incarceration served subsequent to the person’s conviction. If a court grants a writ of habeas corpus or vacates a judgment on the basis of new evidence and finds that the new evidence points unerringly to innocence, existing law requires the board to recommend an appropriation to the Legislature pursuant to these provisions without a hearing.

This bill would require the board to recommend an appropriation to the Legislature if the court finds that the person is factually innocent. The bill would make additional clarifying and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1473 of the Penal Code is amended to
- 2 read:
- 3 1473. (a) Every person unlawfully imprisoned or restrained
- 4 of his or her liberty, under any pretense, may prosecute a writ of
- 5 habeas corpus to inquire into the cause of his or her imprisonment
- 6 or restraint.
- 7 (b) A writ of habeas corpus may be prosecuted for, but not
- 8 limited to, the following reasons:
- 9 (1) False evidence that is substantially material or probative on
- 10 the issue of guilt or punishment was introduced against a person
- 11 at a hearing or trial relating to his or her incarceration.
- 12 (2) False physical evidence, believed by a person to be factual,
- 13 probative, or material on the issue of guilt, which was known by
- 14 the person at the time of entering a plea of guilty, which was a
- 15 material factor directly related to the plea of guilty by the person.
- 16 (3) (A) New evidence exists that is credible, material, *presented*
- 17 *without substantial delay*, and of such decisive force and value
- 18 that it would have more likely than not changed the outcome at
- 19 trial.
- 20 (B) For purposes of this section, “new evidence” means evidence
- 21 that has been discovered after trial, that could not have been
- 22 discovered prior to trial by the exercise of due diligence, and is

1 admissible and not merely cumulative, corroborative, collateral,
2 or impeaching.

3 (c) Any allegation that the prosecution knew or should have
4 known of the false nature of the evidence referred to in paragraphs
5 (1) and (2) of subdivision (b) is immaterial to the prosecution of
6 a writ of habeas corpus brought pursuant to paragraph (1) or (2)
7 of subdivision (b).

8 (d) This section does not limit the grounds for which a writ of
9 habeas corpus may be prosecuted or preclude the use of any other
10 remedies.

11 (e) (1) For purposes of this section, “false evidence” includes
12 opinions of experts that have either been repudiated by the expert
13 who originally provided the opinion at a hearing or trial or that
14 have been undermined by later scientific research or technological
15 advances.

16 (2) This section does not create additional liabilities, beyond
17 those already recognized, for an expert who repudiates his or her
18 original opinion provided at a hearing or trial or whose opinion
19 has been undermined by later scientific research or technological
20 advancements.

21 SEC. 2. Section 1485.5 of the Penal Code is amended to read:

22 1485.5. (a) If the district attorney or Attorney General
23 stipulates to or does not contest the factual allegations underlying
24 one or more of the grounds for granting a writ of habeas corpus
25 or a motion to vacate a judgment, the facts underlying the basis
26 for the court’s ruling or order shall be binding on the Attorney
27 General, the factfinder, and the California Victim Compensation
28 and Government Claims Board.

29 (b) The district attorney shall provide notice to the Attorney
30 General prior to entering into a stipulation of facts that will be the
31 basis for the granting of a writ of habeas corpus or a motion to
32 vacate a judgment.

33 (c) In a contested or uncontested proceeding, the express factual
34 findings made by the court, including credibility determinations,
35 in considering a petition for habeas corpus, a motion to vacate
36 judgment pursuant to Section 1473.6, or an application for a
37 certificate of factual innocence, shall be binding on the Attorney
38 General, the factfinder, and the California Victim Compensation
39 and Government Claims Board.

1 (d) For the purposes of this section, “express factual findings”
2 are findings established as the basis for the court’s ruling or order.

3 (e) For purposes of this section, “court” is defined as a state or
4 federal court.

5 SEC. 3. Section 1485.55 of the Penal Code is amended to read:

6 1485.55. (a) In a contested proceeding, if the court has granted
7 a writ of habeas corpus, or when, pursuant to Section 1473.6, the
8 court vacates a judgment, and if the court has found the person is
9 factually innocent, that finding shall be binding on the California
10 Victim Compensation and Government Claims Board for a claim
11 presented to the board, and upon application by the person, the
12 board shall, without a hearing, recommend to the Legislature that
13 an appropriation be made and the claim paid pursuant to Section
14 4904.

15 (b) In a contested or uncontested proceeding, if the court grants
16 a writ of habeas corpus and did not find the person factually
17 innocent in the habeas corpus proceedings, the petitioner may
18 move for a finding of innocence by a preponderance of the evidence
19 that the crime with which he or she was charged was either not
20 committed at all or, if committed, was not committed by him or
21 her.

22 (c) If the court vacates a judgment pursuant to Section 1473.6,
23 on any ground, the petitioner may move for a finding of innocence
24 by a preponderance of the evidence that the crime with which he
25 or she was charged was either not committed at all or, if committed,
26 was not committed by him or her.

27 (d) If the court makes a finding that the petitioner has proven
28 his or her innocence by a preponderance of the evidence pursuant
29 to subdivision (b) or (c), the board shall, without a hearing,
30 recommend to the Legislature that an appropriation be made and
31 any claim filed shall be paid pursuant to Section 4904.

32 (e) A presumption does not exist in any other proceeding for
33 failure to make a motion or obtain a favorable ruling pursuant to
34 subdivision (b) or (c).

35 (f) If a federal court, after granting a writ of habeas corpus,
36 pursuant to a nonstatutory motion or request, finds a petitioner
37 innocent by no less than a preponderance of the evidence that the
38 crime with which he or she was charged was either not committed
39 at all or, if committed, was not committed by him or her, the board
40 shall, without a hearing, recommend to the Legislature that an

- 1 appropriation be made and any claim filed shall be paid pursuant
- 2 to Section 4904.
- 3 ~~(g) For the purposes of this section, “new evidence” means~~
- 4 ~~evidence that was not available or known at the time of trial.~~

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