

Introduced by Senators Leno and AndersonFebruary 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as introduced, Leno. Habeas corpus: new evidence: 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 \$140 per day of incarceration served. 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, without a hearing, 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*
21 *evidence that has been discovered after trial, that could not have*
22 *been discovered prior to trial by the exercise of due diligence, and*
23 *is admissible and not merely cumulative, corroborative, collateral,*
24 *or impeaching.*

25 (c) Any allegation that the prosecution knew or should have
26 known of the false nature of the evidence referred to in *paragraphs*
27 *(1) and (2) of subdivision (b)* is immaterial to the prosecution of

1 a writ of habeas corpus brought pursuant to *paragraph (1) or (2)*
2 *of subdivision (b).*

3 (d) This section ~~shall not be construed as limiting~~ *does not limit*
4 the grounds for which a writ of habeas corpus may be prosecuted
5 ~~or as precluding~~ *preclude* the use of any other remedies.

6 (e) (1) For purposes of this section, “false evidence” ~~shall~~
7 ~~include~~ *includes* opinions of experts that have either been
8 repudiated by the expert who originally provided the opinion at a
9 hearing or trial or that have been undermined by later scientific
10 research or technological advances.

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

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

17 1485.5. (a) If the district attorney or Attorney General
18 stipulates to or does not contest the factual allegations underlying
19 one or more of the grounds for granting a writ of habeas corpus
20 or a motion to vacate a judgment, the facts underlying the basis
21 for the court’s ruling or order shall be binding on the Attorney
22 General, the factfinder, and the California Victim Compensation
23 and Government Claims Board.

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

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

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

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

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

1 1485.55. (a) In a contested proceeding, if the court ~~grants~~ *has*
2 *granted* a writ of habeas corpus ~~concerning a person who is~~
3 ~~unlawfully imprisoned or restrained~~, or when, pursuant to Section
4 1473.6, the court vacates a judgment on the basis of new evidence
5 concerning a person who is no longer unlawfully imprisoned or
6 ~~restrained~~, *judgment*, and if the court ~~finds that new evidence on~~
7 ~~the petition points unerringly to innocence~~, *has found that the*
8 *person is factually innocent*, that finding shall be binding on the
9 California Victim Compensation and Government Claims Board
10 for a claim presented to the board, and upon application by the
11 person, the board shall, without a hearing, recommend to the
12 Legislature that an appropriation be made and the claim paid
13 pursuant to Section 4904.

14 (b) ~~If~~ *In a contested or uncontested proceeding*, if the court
15 grants a writ of habeas corpus ~~concerning a person who is~~
16 ~~unlawfully imprisoned or restrained on any ground other than new~~
17 ~~evidence that points unerringly to innocence or actual innocence~~,
18 ~~the and did not find the person factually innocent in the habeas~~
19 ~~corpus proceedings~~, *the* petitioner may move for a finding of
20 innocence by a preponderance of the evidence that the crime with
21 which he or she was charged was either not committed at all or,
22 if committed, was not committed by him or her.

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

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

35 (e) ~~No~~ *A presumption shall does not* exist in any other
36 proceeding for failure to make a motion or obtain a favorable ruling
37 pursuant to subdivision (b) or (c).

38 (f) If a federal court, after granting a writ of habeas corpus,
39 pursuant to a nonstatutory motion or request, finds a petitioner
40 innocent by no less than a preponderance of the evidence that the

1 crime with which he or she was charged was either not committed
2 at all or, if committed, was not committed by him or her, the board
3 shall, without a hearing, recommend to the Legislature that an
4 appropriation be made and ~~the claim~~ *any claim filed shall be paid*
5 pursuant to Section 4904.

6 ~~(g) For the purposes of this section, “new evidence” means~~
7 ~~evidence that was not available or known at the time of trial that~~
8 ~~completely undermines the prosecution case and points unerringly~~
9 ~~to innocence.~~

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