

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE MAY 31, 2016

SENATE BILL

No. 1134

Introduced by Senators Leno and Anderson
(Coauthors: Senators Glazer and Hancock)
(Coauthor: Assembly Member Bonta)
(Coauthors: Assembly Members Bonilla and Bonta)

February 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 amended, 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~~A 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 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) ~~The~~ *In a contested or uncontested proceeding, the express*
34 *factual findings made by the court, including credibility*
35 *determinations, in considering a petition for habeas corpus, a*
36 *motion to vacate judgment pursuant to Section 1473.6, or an*
37 *application for a certificate of factual innocence, shall be binding*
38 *on the Attorney General, the factfinder, and the California Victim*
39 *Compensation 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 ~~grants~~ *has*
7 *granted* a writ of habeas corpus ~~concerning a person who is~~
8 ~~unlawfully imprisoned or restrained, or or~~ when, pursuant to
9 Section 1473.6, the court vacates a ~~judgment on the basis of new~~
10 ~~evidence concerning a person who is no longer unlawfully~~
11 ~~imprisoned or restrained, judgment,~~ and if the court finds that new
12 ~~evidence on the petition points unerringly to innocence, has found~~
13 *that the person is factually innocent*, that finding shall be binding
14 on the California Victim Compensation Board for a claim presented
15 to the board, and upon application by the person, the board shall,
16 without a hearing, recommend to the Legislature that an
17 appropriation be made and the claim paid pursuant to Section 4904.

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

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

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

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

4 (f) If a federal court, after granting a writ of habeas corpus,
5 pursuant to a nonstatutory motion or request, finds a petitioner
6 *factually* innocent by no less than a preponderance of the evidence
7 that the crime with which he or she was charged was either not
8 committed at all or, if committed, was not committed by him or
9 her, the board shall, without a hearing, recommend to the
10 Legislature that an appropriation be made and ~~the claim~~ *any claim*
11 *filed shall be* paid pursuant to Section 4904.

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

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) ~~In a contested or uncontested proceeding, the express factual~~
29 ~~findings made by the court, including credibility determinations,~~
30 ~~in considering a petition for habeas corpus, a motion to vacate~~
31 ~~judgment pursuant to Section 1473.6, or an application for a~~
32 ~~certificate of factual innocence, shall be binding on the Attorney~~
33 ~~General, the factfinder, and the California Victim Compensation~~
34 ~~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 has granted
2 a writ of habeas corpus or when, pursuant to Section 1473.6, the
3 court vacates a judgment, and if the court has found that the person
4 is factually innocent, that finding shall be binding on the California
5 Victim Compensation and Government Claims Board for a claim
6 presented to the board, and upon application by the person, the
7 board shall, without a hearing, recommend to the Legislature that
8 an appropriation be made and the claim paid pursuant to Section
9 4904.

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

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

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

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

30 (f) If a federal court, after granting a writ of habeas corpus,
31 pursuant to a nonstatutory motion or request, finds a petitioner
32 factually innocent by no less than a preponderance of the evidence
33 that the crime with which he or she was charged was either not
34 committed at all or, if committed, was not committed by him or
35 her, the board shall, without a hearing, recommend to the
36 Legislature that an appropriation be made and any claim filed shall
37 be paid pursuant to Section 4904.