



SB 1211 (Gonzalez) Post-Conviction Innocence Claims

SUMMARY

Senate Bill (SB) 1211 would clarify in statute that District Attorneys, and their Conviction Integrity Units, have the jurisdictional authority to investigate post-conviction claims of factual innocence as if they were open cases.

EXISTING LAW

Existing law prescribes the ability for any person who believes they have been unlawfully imprisoned to seek a writ of habeas corpus for, among other things, the discovery of new evidence that more than likely would have changed the outcome of their case. (PEN § 1473)

If a court has granted a writ of habeas corpus or vacated a judgement, a person may ask the court for a finding of factual innocence by a preponderance of the evidence that the crime with which they were charged was either not committed at all, or, if committed, was not committed by them. (PEN § 1485.55)

SB 78 (Glazer, Chapter 702, Statutes of 2023) requires district attorneys to provide notice to the Attorney General at least 7 days prior to presenting facts agreed upon by both the prosecution and defense to be the basis for a writ of habeas corpus.

BACKGROUND/PROBLEM

The State of California has a robust set of pathways for incarcerated persons to contest their conviction, including direct appeals, habeas petitions, and claims of factual innocence. Claims of factual innocence can be filed as the basis for a habeas petition, when new evidence arises that the defendant believes would have changed the outcome of their trial.

California places the responsibility to investigate post-conviction claims on the District Attorney's (DA) office that filed the original case in question. To better focus these investigations, many large DA offices have organized Conviction Integrity Units or Conviction Review Units (CIUs) with the purpose of processing post-conviction claims. If a CIU's investigation supports the defendant's claim of factual innocence, the DA presents the evidence to a judge and requests exoneration for the individual. To date, CIUs in California have exonerated 35 individuals.¹

Post-conviction claims are, by nature, investigations of closed cases. Under current law, both the prosecution and defense do not have the same access to evidentiary materials in closed cases as they do in open cases, which causes significant delays and roadblocks for CIUs while investigating post-conviction claims. CIUs have difficulty issuing subpoenas for documents due to a lack of scheduled court dates, are blocked from filing certain

¹ <https://exonerationregistry.org/conviction-integrity-units>

legal motions for closed matters, and are being denied removal orders by the Federal Bureau of Prisons.

These roadblocks can also hinder the ability of claimants to have legal representation, as Judges are reluctant to appoint counsel without an open case. These delays can translate to an innocent person spending additional months, or even years, serving a sentence they should never have received.

SOLUTION

SB 1211 will streamline the processing of post-conviction claims of factual innocence by clarifying in statute that they shall be treated as open matters for the purposes of investigation. Upon accepting a post-conviction review claim, SB 1211 will permit District Attorney offices to file a notice with the court of their intent to investigate the claim. Once the court is notified, this measure vests District Attorney offices with authorities they usually have when investigating an open case, including the ability to:

1. Issue subpoenas and compel the production of relevant documents and testimony.
2. File Pitchess motions and other relevant requests for personnel records.
3. File motions for court-ordered appointment of counsel.
4. File motions for the removal of prisoners.

SB 1211 also adds several protections for any materials accessed through this authority, including:

1. Requiring a consent waiver from a petitioner to access confidential files.
2. Adding a protective order for all materials accessed through a factual innocence investigation.
3. Requiring disclosure of all investigative materials to the petitioner within 60 days of an investigation's conclusion.

By clarifying this authority to investigate, DAs and CIUs will be able to process significantly more post-conviction claims – leading to more exonerations for wrongfully-convicted people in California.

SUPPORT

Los Angeles County District Attorney's Office (Sponsor)

California Civil Liberties Advocacy
San Quentin Skunkworks

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