



AB 3088 – Criminal procedure: writ of habeas corpus

Summary:

AB 3088 seeks to articulate the standard by which procedural barriers can be overcome by innocent individuals attempting to secure their release from prison through habeas corpus petitions in California.

In the absence of a statute, under existing case law, the procedural barriers of timeliness and successive petition considerations often bar incarcerated people from having their claims heard by a court, even when new evidence of innocence is alleged in their case.

AB 3088 would allow for habeas petitions implicating a wrongful conviction to be evaluated on their merits rather than being summarily dismissed based on procedural grounds.

Specifically, if it is indicated that by a preponderance of the evidence—both old and newly-developed, at least one juror would not have convicted the petitioner, the claims raised in a petition should be considered by the court on their merits in light of the new evidence presented.

Background:

For an innocent person to get out of prison, they must file a habeas corpus petition to challenge the legality of their incarceration. Once the habeas petition is filed, the court will review the arguments and evidence presented. If the court finds potential merit in the petition, it may schedule hearings to further examine the issues raised. The court will then make a decision on whether to grant relief, deny the petition, or order other legal remedies.

There are a number of procedural barriers that prevent claims in a habeas petition from being considered. In California, case law states that a petitioner has to bring their habeas petition in a timely fashion and that courts will not consider repetitive claims. Unlike other states, these requirements are not statutorily defined, forcing courts to look to case law to determine whether a petition

is timely or successive. The guidance provided by the case law—often developed in capital cases where the inmate has post-conviction counsel—imposes a much higher legal standard to have a claim heard on the merits than that required to reverse a conviction.

If a petitioner fails to file a habeas corpus petition in a timely manner or faces other procedural barriers, the judge may dismiss the petition based on procedural grounds alone. This means that the judge never has to consider the merits of the petition at all if it is deemed untimely or successive in their initial review of the petition.

If an innocent person faces procedural barriers to their petition, their only remaining option is a showing of actual innocence. This showing of innocence must be presented before the petitioner has the opportunity to engage in an evidentiary hearing, during which the judge considers the merits of the case with the help of tools such as witnesses and experts. This actual innocence requirement is not only one of the highest standards in the country, but is also higher than the standard required to reverse a conviction.

The result of the current system is innocent incarcerated people being barred from habeas petition consideration due to ill-defined procedural barriers. These individuals find themselves barred from presenting compelling evidence that could prove their innocence, resulting in wrongly incarcerated people remaining in prison.

AB 3088:

- Changes Section 1473 of the Penal Code to state that a habeas petition shall be considered on the merits and not dismissed if it is determined to be untimely or successive if, by preponderance of the evidence, one juror could find the petitioner innocent in light of the new evidence presented.
- Ensures that innocent people have the right to challenge the legality of their incarceration on the

merits despite when they become aware of new evidence that may prove their innocence or when they file a habeas petition with the court.

- Provides clarity to courts on the appropriate standard for overcoming procedural barriers without relying on ambiguous case law.

Support:

California Innocence Coalition (Sponsor)

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