
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

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Author: Schultz
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Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Criminal procedure: writs of habeas corpus and motions to vacate*

HISTORY

Source: California Innocence Coalition

Prior Legislation: AB 3088 (Friedman), held in Senate Appropriations, 2024
SB 97 (Wiener), Ch. 381, Stats. of 2023
SB 467 (Wiener), Ch. 982, Stats. of 2022
SB 1134 (Leno), Ch. 785, Stats. of 2016
SB 1058 (Leno), Ch. 623, Stats. of 2014
SB 1391 (Burton), Ch. 1105, Stats. of 2002

Support: ACLU California Action; California Attorneys for Criminal Justice; California Public Defenders Association; Ella Baker Center for Human Rights; Exonerated Nation; Friends Committee on Legislation of California; Justice2Jobs Coalition; La Defensa; Los Angeles County Public Defender's Union, Local 148; San Quentin Skunkworks; Smart Justice California

Opposition: California District Attorneys Association; Peace Officers Research Association of California

Assembly Floor Vote: 61 - 14

PURPOSE

The purposes of this bill are to authorize a petitioner for habeas corpus relief, in order to overcome a procedural bar to relief based on untimeliness or successiveness, to identify changes in law or new evidence that create a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case; provide that a prosecutorial concession to a factual basis or stipulation to a factual or legal basis for habeas relief is binding, except as specified; and specify that one of the remedies available to the court in a habeas proceeding is a dismissal of charges that bars further prosecution.

Existing law authorizes a person unlawfully imprisoned or restrained of their liberty, under any pretense, to prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint. (Pen. Code, § 1473, subd. (a).)

Existing law provides that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

- False evidence that is material on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to the person's incarceration.
- False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person.
- New evidence exists that is presented without substantial delay, is admissible, and is sufficiently material and credible that it more likely than not would have changed the outcome of the case. Provides that "new evidence" means evidence that has not previously been presented and heard at trial and has been discovered after trial.
- A significant dispute has emerged or further developed in the petitioner's favor regarding expert medical, scientific, or forensic testimony that was introduced at trial or a hearing and that expert testimony more likely than not affected the outcome of the case. Provides that expert medical, scientific, or forensic testimony includes the expert's conclusion or the scientific, forensic, or medical facts upon which their opinion is based. (Pen. Code, § 1473, subd. (b)(1)(A)-(D).)

Existing law provides that a significant dispute may be as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony. (Pen. Code, § 1473, subd. (b)(1)(D)(ii).)

Existing law provides that a significant dispute can be established by credible expert testimony or declaration, or by peer reviewed literature showing that experts in the relevant medical, scientific, or forensic community, substantial in number or expertise, have concluded that developments have occurred that undermine the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony. (Pen. Code, § 1473, subd. (b)(1)(D)(iii).)

Existing law provides that in assessing whether a dispute is significant, the court shall give great weight to evidence that a consensus has developed in the relevant medical, scientific, or forensic community undermining the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony or that there is a lack of consensus as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which a medical, scientific, or forensic expert based their testimony. (Pen. Code, § 1473, subd. (b)(1)(D)(iv).)

Existing law provides that the significant dispute must have emerged or further developed within the relevant medical, scientific, or forensic community, which includes the scientific community and all fields of scientific knowledge on which those fields or disciplines rely and shall not be limited to practitioners or proponents of a particular scientific or technical field or discipline. (Pen. Code, § 1473, subd. (b)(1)(D)(v).)

Existing law requires the court, if the petitioner makes a prima facie showing that they are entitled to relief due to a significant dispute that has emerged or developed, to issue an order to show cause why relief shall not be granted. Provides that to obtain relief, all the elements must be established by a preponderance of the evidence. (Pen. Code, § 1473, subd. (b)(1)(D)(vi).)

Existing law provides that "false evidence" includes opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have

been undermined by the state of scientific knowledge or later scientific research or technological advances. (Pen. Code, § 1473, subd. (a)(2).)

Existing law provides that the above provisions do not change the existing procedures for habeas relief, except as provided. (Pen. Code, § 1473, subd. (c).)

Existing law provides that for purposes of a habeas petition, if the district attorney in the county of conviction or the Attorney General concedes or stipulates to a factual or legal basis for habeas relief, there is a presumption in favor of granting relief. Provides that this presumption may be overcome only if the record before the court contradicts the concession or stipulation, or it would lead to the court issuing an order contrary to law. (Pen. Code, § 1473, subd. (g).)

Existing law provides that any person no longer unlawfully imprisoned or restrained may prosecute a motion to vacate a judgment for any of the following reasons:

- Newly discovered evidence of fraud by a government official that completely undermines the prosecution's case, is conclusive, and points unerringly to his or her innocence.
- Newly discovered evidence that a government official testified falsely at the trial that resulted in the conviction and that the testimony of the government official was substantially probative on the issue of guilt or punishment.
- Newly discovered evidence of misconduct by a government official committed in the underlying case that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment. Specifies that evidence of misconduct in other cases is not sufficient to warrant relief under this provision of law. (Pen. Code, § 1473.6, subd. (a).)

Existing law provides that "newly discovered evidence" is evidence that could not have been discovered with reasonable diligence prior to judgment. (Pen. Code, § 1473.6, subd. (b).)

Existing law provides that the procedure for bringing and adjudicating a motion to vacate a judgment, including the burden of producing evidence and the burden of proof, is the same as for prosecuting a writ of habeas corpus. (Pen. Code, § 1473.6, subd. (c).)

Existing law provides that a motion to vacate a judgment must be filed within one year of the date the moving party discovered, or could have discovered with the exercise of due diligence, additional evidence of the misconduct or fraud by a government official beyond the moving party's personal knowledge. (Pen. Code, § 1473.6, subd. (d).)

Existing law provides that a person who is no longer in criminal custody may file a motion to vacate a conviction or sentence for any of the following reasons:

- The conviction or sentence is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence. Provides that a finding of legal invalidity may, but need not, include a finding of ineffective assistance of counsel.
- Newly discovered evidence of actual innocence exists that requires vacation of the conviction or sentence as a matter of law or in the interests of justice.

- A conviction or sentence was sought, obtained, or imposed on the basis of race, ethnicity, or national origin, as specified. (Pen. Code, § 1473.7, subd. (a).)

Existing law provides that a motion to vacate a conviction or sentence is timely if filed at any time in which the individual filing the motion is no longer in criminal custody, except as specified. (Pen. Code, § 1473.7, subd. (b).)

Existing law requires the court to grant the motion to vacate the conviction or sentence if the moving party establishes, by a preponderance of the evidence, the existence of any of the grounds for relief outlined above. (Pen. Code, § 1473.7, subd. (f)(1).)

Existing law provides that the party brought before the court, on the return of the writ, may deny or controvert any of the material facts or matters set forth in the return, or except to the sufficiency thereof, or allege any fact to show either that the imprisonment or detention is unlawful, or that he is entitled to his discharge. Requires the court to proceed in a summary way to hear such proof as may be produced against such imprisonment or detention, or in favor of the same, and to dispose of such party as the justice of the case may require, and have full power and authority to require and compel the attendance of witnesses, by process of subpoena and attachment, and to do and perform all other acts and things necessary to a full and fair hearing and determination of the case. (Pen. Code, § 1484.)

This bill provides a habeas petition may be prosecuted for false evidence relating to a person's guilt or punishment where there is any reasonable likelihood that the evidence would have affected the outcome of the case.

This bill provides that new evidence exists for purposes of a habeas petition if there is a reasonable probability it would have produced a different result sufficient to undermine confidence in the outcome of the case.

This bill provides that a significant dispute regarding expert testimony need only exist, there is a reasonable probability that the testimony affected the outcome of the case, and the significant dispute was not previously presented and heard at trial.

This bill requires if a prosecutor knew or should have known evidence was false and failed to correct it at trial, the burden to shift to the respondent to demonstrate there is no likelihood the false evidence impacted the jury.

This bill provides that to overcome a procedural bar to relief based on untimeliness or successiveness in a habeas petition, the petitioner may either identify changes in law or new evidence, or establish that the allegations in the petition, if taken as true, create a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case.

This bill provides that if the Attorney General or district attorney stipulates or concedes to any factual basis for habeas relief, that concession or stipulation is binding on the parties. Provides that a concession in open court, or in a pleading including an informal response or a return to an order to show cause, cannot be withdrawn. Provides that a stipulation may be withdrawn only if the moving party proves by a preponderance of the evidence that the other party violated the stipulation's terms or that the state withheld evidence that reasonably could have affected the petitioner's decision to enter into the stipulation.

This bill requires a court to grant relief based on a concession or stipulation unless doing so would be contrary to law. Requires the court to issue a written order explaining its legal and factual basis if the court rejects a concession or stipulation. Provides that the order is appealable.

This bill provides that a person may file a motion to vacate, as specified:

- Where there is new evidence of fraud by a government official that demonstrates a reasonable probability it would have produced a different result sufficient to undermine confidence in the outcome of the case.
- Where there is new evidence that a government official testified falsely at trial that resulted in the conviction and that there is a reasonable probability the testimony of the government official would have produced a different result sufficient to undermine confidence in the outcome of the case.
- Where there is new evidence of misconduct by a government official committed in the underlying case that resulted in fabrication of evidence that resulted in the conviction and that there is a reasonable probability the testimony of the government official would have produced a different result sufficient to undermine confidence in the outcome of the case.

This bill provides that new evidence is evidence that has not previously been presented and heard at trial and has been discovered after trial.

This bill provides when filing a return of a habeas writ, as specified, the court has the full power and authority to require and compel production of discovery for good cause or witness attendance, by subpoena, and any other necessary acts to ensure a full and fair hearing on determination of the case.

This bill requires the court, after a habeas writ is returned and denied following formal briefing, to proceed to a hearing on any proof for or against imprisonment. Provides that the court has broad authority to fashion appropriate relief if granting relief from a habeas petition. Authorizes the court to dismiss a pending action with or without prejudice.

This bill includes other clarifying changes to harmonize various provisions related to various habeas petitions or motions to vacate a conviction or juvenile adjudication pertaining to new or false evidence.

This bill includes legislative findings and declarations.

COMMENTS

1. Need For This Bill

According to the author:

... Over the past decade, amendments to habeas corpus and related post-conviction statutes have produced inconsistent legal standards, conflicting burdens of proof, and uncertainty regarding discovery. These inconsistencies can result in similarly situated individuals being treated differently across jurisdictions and can require courts to expend significant resources resolving procedural disputes rather than evaluating the merits of a claim.

This bill clarifies the standard courts apply when assessing whether new evidence undermines confidence in the outcome of a conviction, aligns post-conviction review with well-established constitutional principles, and clarifies courts' authority to order discovery for good cause after issuing an order to show cause. AB 1595 also promotes transparency by requiring courts to state their reasons when declining to accept a factual or legal concession from a prosecuting agency, while fully preserving the court's role as the ultimate decision-maker.

Importantly, AB 1595 does not expand relief or mandate that courts grant petitions. Instead, it ensures courts retain the discretion necessary to distinguish between non-meritorious claims and those that warrant careful judicial review. By reducing unnecessary litigation over threshold procedural issues, the bill helps conserve limited judicial resources and allows courts to focus on claims that meaningfully call the integrity of a conviction into question.

A consistent statewide framework promotes equal treatment for both represented and self-represented petitioners and reinforces public confidence in the justice system. Ensuring that courts can evaluate credible new evidence helps protect the integrity of convictions, supports victims by promoting accuracy and accountability, and strengthens public safety by helping ensure that the correct person is held responsible for the crime. ...

2. Habeas Corpus

Habeas corpus, also known as “the Great Writ,” is a process guaranteed by both the federal and state constitutions to obtain prompt judicial relief from unlawful restraint. The function of a writ is set forth in Penal Code section 1473, subdivision (a): “Every person unlawfully imprisoned or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.” Penal Code section 1473 specifies that it “does not limit the grounds for which a writ of habeas corpus may be prosecuted or preclude the use of any other remedies.” (Pen. Code, § 1473, subd. (d).)

A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons: false evidence that is material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to the person's incarceration; false physical evidence believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person; new evidence exists that is sufficiently material and credible that it more likely than not would have changed the outcome of the case; or a significant dispute has emerged or further developed in the petitioner's favor regarding expert medical, scientific, or forensic testimony that was introduced at trial or a hearing and that expert testimony more likely than not affected the outcome of the case. (Pen. Code, § 1473, subd. (b)(1).) Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus based on false evidence. (Pen. Code, § 1473, subd. (b)(3).)

A habeas corpus claim of false testimony requires proof that false evidence was introduced against petitioner at their trial and that such evidence was material or probative on the issue of the person's guilt. (*In re Bell* (2007) 42 Cal.4th 630, 637.) A habeas writ may also be prosecuted

based on newly discovered evidence. The new evidence must be presented without substantial delay, admissible, and sufficiently material and credible that it more likely than not would have changed the outcome of the case. (Pen. Code, §1473, subd. (b)(1)(C).) Additionally, new evidence “means evidence that has not previously been presented and heard at trial and has been discovered after trial.” (*Ibid.*)

The Legislature has also codified the right to prosecute a petition for writ of habeas corpus when evidence of intimate partner battering was not presented at trial. (Pen. Code, § 1473.5.) Again, the evidence must be of such substance that had it been presented there is a “reasonable probability, sufficient to undermine confidence in the judgment of conviction or sentence, that the result of the proceedings would have been different.” (Pen. Code, § 1473.5, subd. (a).)

3. Habeas Petitions Based on False or New Evidence

As stated above, a habeas petition may be prosecuted on the grounds that the state adduced false evidence at trial. False evidence may include false witness or victim testimony as well as faulty forensic or scientific evidence. According to a report from UC Berkeley School of Law and the University of Pennsylvania Law School, erroneous convictions cost California taxpayers over \$282 million between 1989 and 2012.¹

False or misleading forensic evidence was a contributing factor in 29% of all wrongful convictions nationally, according to the National Registry of Exonerations, which tracks both DNA and non-DNA based exonerations.² This includes convictions based on forensic evidence that is unreliable or invalid and expert testimony that is misleading. It also includes mistakes made by practitioners and in some cases misconduct by forensic analysts. In some cases, scientific testimony that was generally accepted at the time of a conviction has since been undermined by new scientific advancements in disciplines including:

- Hair comparisons: Microscopic hair analysis involves comparing hair found at a crime scene with the hair of the defendant. A 2009 National Academy of Sciences report stated that microscopic hair comparisons could not be used to match hair with a specific individual.³ In 2015, the FBI announced that its hair microscopy experts overstated the probability of a match between hair evidence and the defendant’s hair in at least 90 percent of the 268 cases it had reviewed.⁴
- Arson: Decades of fire research has debunked evidence that was used to convict people of arson. The 1992 publication of National Fire Protection Association (NFPA) 921 noted that many of the physical artifacts previously thought to occur only in intentional fires—such as “alligatoring” of wood, crazed glass, and sagged furniture

¹ Silbert et al., *Criminal Injustice: A Cost Analysis of Wrongful Convictions, Errors, and Failed Prosecutions in California’s Criminal Justice System* (2015), p. 6 available at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2741863>.

² National Registry of Exonerations, *Percentage Exonerations by Contributing Factor*, available at <<https://exonerationsregistry.org/exonerations-contributing-factor>>.

³ National Academy of Sciences, *Strengthening Forensic Science in the United States: A Path Forward* (2009) available at <<https://www.ncjrs.gov/pdffiles1/nij/grants/228091.pdf>>.

⁴ FBI, *FBI Testimony on Microscopic Hair Analysis Contained Errors in at Least 90 Percent of Cases in Ongoing Review* (Apr. 20, 2015) available at <<https://www.fbi.gov/news/press-releases/fbi-testimony-on-microscopic-hair-analysis-contained-errors-in-at-least-90-percent-of-cases-in-ongoing-review>>.

springs—could actually occur in accidental fires.⁵ NFPA 921 only became generally accepted by the relevant scientific community in the early 2000’s.

- **Comparative Bullet Lead Analysis:** Comparative Bullet Lead Analysis (“CBLA”) was believed to be able to link bullets found at a crime scene to bullets possessed by a suspect based on the assumption that the lead composition in a bullet was unique and limited to the batch that it came from. Since the early 1980’s, the FBI conducted bullet lead examinations in over 2,500 cases. The FBI stopped using CBLA after a 2002 National Academy of Sciences (NAS) report found problems with interpretations of the results of these analyses.⁶
- **Bitemark Analysis:** Bitemark analysis is a forensic technique in which marks on the skin of a biting victim are compared with the teeth of a suspected biter. In 2022, the National Institute of Standards and Technology (NIST) published a report which concluded: “[F]orensic bitemark analysis lacks a sufficient scientific foundation because the three key premises of the field are not supported by the data. ... [H]uman anterior dental patterns have not been shown to be unique at the individual level. ... [T]hose patterns are not accurately transferred to human skin consistently. ... [I]t has not been shown that defining characteristics of those patterns can be accurately analyzed to exclude or not exclude individuals as the source of a bitemark.”⁷

In a habeas petition based on false evidence, a court considering the effect of false evidence must consider whether the evidence was material, and not whether substantial evidence supported the conviction absent the false evidence. (*In re Richards* (2016) 63 Cal.4th 291, 312; *In re Sassounian* (1995) 9 Cal.4th 535, 546, 550, fn. 13.)

Under the materiality standard of *Napue v. Illinois* (1959) 360 U.S. 264, a conviction must be reversed where a reasonable likelihood exists that the false testimony could have affected the judgment of the jury. Applying this standard, the U.S. Supreme Court held in *Glossip v. Oklahoma*:

As *Napue* made clear, however, “[a] lie is a lie, no matter what its subject.” *Napue*, 360 U. S., at 269-270, (internal citation omitted)). Nothing in *Napue* requires ignoring the fact of Sneed’s perjury in the prejudice analysis. To the contrary, materiality instead always requires courts to assess whether “the error complained of” could have contributed to the verdict. See *Chapman v. California* (1967) 386 U. S. 18, 24; *U.S. v. Bagley* (1985) 473 U. S. 667, 680, fn. 9. Here, the prosecutor’s failure to correct Sneed’s false testimony is the relevant error, so the Court asks whether a correction could have made a material difference. The answer is clearly yes. (*Glossip v. Oklahoma* (2025) 604 U.S. 226, 253.)

⁵ NFPA 921 Fire & Explosion Investigations Guide (2004), <https://studylib.net/doc/18648668/national-fire-protection-association--nfpa-921--guide-for>

⁶ FBI, *FBI Laboratory Announces Discontinuation of Bullet Lead Examinations* (Sept. 1, 2005) available at <<https://archives.fbi.gov/archives/news/pressrel/press-releases/fbi-laboratory-announces-discontinuation-of-bullet-lead-examinations>>.

⁷ NIST, *Forensic Bitemark Analysis Not Supported by Sufficient Data, NIST Draft Review Finds* (Oct. 11, 2022) available at <<https://www.nist.gov/news-events/news/2022/10/forensic-bitemark-analysis-not-supported-sufficient-data-nist-draft-review>>.

In its 2024 report, the Committee on the Revision of the Penal Code recommended that the Legislature adopt a unified standard for post-conviction claims based on new evidence that allows relief if the defendant shows a reasonable probability that the outcome of the case would have been different considering the new or false evidence. To support this recommendation, the Committee provided:

The [habeas corpus] statutory scheme was not updated again until 2014 but has been regularly amended since then ... without any uniformity in the standards.

As a result of these changes, in order to vacate a conviction, some claims require showing (in order of difficulty for the petitioner) a ‘reasonable probability’ of a different result, others require showing that a different result is ‘more likely than not’ that is, by a preponderance of evidence, and at least one path to relief requires evidence that ‘completely undermines the prosecution’s case, is conclusive, and points unerringly to [the person’s] innocence.’ (See *In re Richards, supra*, 63 Cal.4th 312-313; *People v. Watson* (1956) 46 Cal.2d 818; Pen. Code, §§1473, subd. (b)(1)(C-D); 1473.6, subd. (a)(1).) It is also unclear what someone with new evidence of innocence must prove to have a conviction vacated if they are no longer in custody as the language for this type of petition is different from all the others.⁸

4. Timeliness and Successive Habeas Petitions Based on New Evidence

Under existing law, a person who wants to challenge their conviction by filing a petition for a writ of habeas corpus in state court must present each claim in a timely fashion.⁹ There is no express time period in which to seek state habeas corpus relief in a non-capital criminal case. (*In re Douglas* (2011) 200 Cal.App.4th 236, 242.) Whether a claim has been timely presented is assessed based on an indeterminate reasonableness standard. A petition is timely if filed “within a reasonable time.” (*Evans v. Chavis* (2006) 546 U.S. 189, 191-192.)

Generally, delay in seeking habeas corpus relief in a non-capital case is measured from the time a petitioner or petitioner’s counsel becomes aware of the grounds for relief, which may be as early as the date of conviction. (*Douglas, supra*, 200 Cal.App.4th at 243.) To show that there was not a substantial delay in filing a habeas petition, the “petitioner must allege, with specificity, facts showing when information offered in support of the claim was obtained, and that the information neither was known, nor reasonably should have been known, at any earlier time.” (*In re Reno* (2012) 55 Cal.4th 428, 461.)

There are exceptions to the general rule. California courts allow a longer delay if the petitioner demonstrates good cause which may be established “by showing particular circumstances to justify substantial delay.” (*In re Robbins* (1998) 18 Cal.4th 770, 780.) A petitioner can also bring an untimely habeas petition if they can show “error of constitutional magnitude led to a trial that was so fundamentally unfair that absent the error no reasonable judge or jury would have convicted the petitioner;” that they are “actually innocent of the crime or crimes of which he or

⁸ Committee on Revision of the Penal Code, *Annual Report and Recommendations, 2024* (Dec. 2024), pp. 13-14 available at <https://clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2024.pdf>.

⁹ The changes made by this bill would apply to non-capital cases only. Proposition 66, codified as California Penal Code section 1509, provides that the initial habeas petition in a death penalty case must be filed within one year of the order in which habeas corpus counsel was appointed. (See also, *Briggs v. Brown* (2017) 3 Cal.5th 808.)

she was convicted;” or that they were “convicted or sentenced under an invalid statute.” (*In re Reno* (2012) 55 Cal.4th 428, 460; *In re Clark* (1993) 5 Cal.4th 750, 797-98.)

Pursuant to the “actual innocence” exception to the court’s timeliness rules for subsequent petitions for writs of habeas corpus in death penalty cases, evidence relevant only to an issue already disputed at trial, which does no more than conflict with trial evidence, does not constitute new evidence that fundamentally undermines the judgment. Rather, a petitioner must show the evidence of innocence could not have been, and presently cannot be, refuted.

5. Effect of This Bill

This bill seeks to unify the standards between habeas petitions based on new evidence and false testimony, requiring a showing of a reasonable probability of a different outcome in the case. This bill authorizes a habeas petitioner, in order to overcome a procedural bar to relief based on untimeliness or successiveness, to demonstrate that the allegations in the petition, if taken as true, combined with any other evidence before the court, including any new or changed law, creates a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case. This bill also specifies that where the prosecutor concedes to a factual basis or stipulates to a factual or legal basis forming the basis of a habeas petition, it is binding on the parties and may not generally be withdrawn. This bill provides that a stipulation may only be withdrawn if the moving party proves beyond a preponderance of evidence that the other party violated the stipulation’s terms or that the state withheld evidence that reasonably could have affected the petitioner’s decision to enter into the stipulation. Finally, this bill specifies that one of the remedies available to the court in a habeas proceeding is a dismissal of charges that bars further prosecution.

6. Argument in Support

The California Innocence Coalition, the bill’s sponsor, writes:

Over the past decade, California’s post-conviction statutes governing habeas corpus have been repeatedly amended, crowding California policy with unnecessary litigation that results in inconsistent legal standards for evaluating wrongful conviction claims, conflicting burdens of proof depending on custody status or statutory pathways, unpredictable access to discovery even after courts issue orders to show cause, and rigid procedural bars that can prevent courts from hearing meritorious claims of innocence.

Due to these inconsistent legal standards, individuals are treated differently depending on the court their cases are heard. Additionally, courts expend significant resources on evaluating procedural issues rather than contents of the cases themselves, and credible claims of wrongful conviction are either delayed or never heard despite merit. For example, new evidence, not available or not able to be discovered with reasonable diligence at the time of conviction, may surface that undermines or directly contradicts key facts present at trial. In California, a court may or may not meaningfully consider this new evidence depending on which post-conviction statute applies, the defendant’s custody status, or if procedural rules bar the claim altogether.

AB 1595 provides guidelines that would undermine these inconsistent legal standards. In clarifying the standard to be applied to post-conviction review; allowing courts to reach the merits of otherwise barred claims when new evidence undermines the original conviction's validity in meeting the burden of proof; requiring courts to state reasons if a concession by the District Attorney or Attorney General on a factual or legal basis for relief is rejected; clarifying courts' authority to order discovery for good cause after an order to show cause issue, AB 1595 helps to amend current legal inconsistencies and their unfair ramifications for petitioners navigating the California legal system.

To align California law with well-established Constitutional principles and fundamental fairness, we sponsor AB 1595, a bill clarifying habeas corpus, which will result in justice for hundreds of innocent people who are currently unfairly reliant on which court might hear them rather than if their case has merit.

7. Argument in Opposition

According to the California District Attorney Association:

While CDAA agrees that consistency of certain standards for petitions for writ of habeas corpus and motions to vacate is a laudable goal, our concern remains that the new standards that this bill seeks to apply uniformly, are too great an erosion of the proper standard for post-conviction newly discovered evidence or false evidence claims. The proposed standards import pre-conviction language around *Brady* and *Napue* violations but those standards do not equally apply in the post-conviction context.

This bill attempts to simplify differing standards, but where the nature of certain claims differ, the standards also differ. Convictions are presumed valid, and courts and victims have an interest in the finality of convictions. The change in standard could generate re-litigation of prior habeas claims and motions to vacate without procedural barriers to piecemeal litigation. We are also concerned with the necessity of language encouraging dismissals with prejudice, which may raise separation of powers issues. There are sufficient guardrails preventing undue delay in re-filing. Dismissal with prejudice is not an apt remedy for any such delay. Lastly, we also have concern with the legal validity of language binding a court or a party by the concession or stipulation of another.

Again, we are greatly appreciative of the opportunities for discussion we have had around this bill. However, we believe several of these proposed changes are incongruent with well settled law, could unduly burden the court, divest the court of discretion, and result in increased litigation and re-litigation of old claims which would have a significant fiscal impact on the court.

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