



SB-981 Criminal procedure: factual innocence. (2021-2022)

SHARE THIS:



Date Published: 08/18/2022 09:00 PM

ENROLLED AUGUST 18, 2022

PASSED IN SENATE AUGUST 16, 2022

PASSED IN ASSEMBLY AUGUST 04, 2022

AMENDED IN ASSEMBLY JUNE 06, 2022

AMENDED IN SENATE APRIL 18, 2022

AMENDED IN SENATE MARCH 23, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 981

Introduced by Senator Glazer
(Principal coauthor: Senator Becker)
(Coauthor: Senator Caballero)
(Coauthor: Assembly Member Lackey)

February 10, 2022

An act to amend Sections 1485.5, 1485.55, and 4902 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 981, Glazer. Criminal procedure: factual innocence.

Existing law authorizes a person who is unlawfully imprisoned under specified circumstances, including, without limitation, conviction on the basis of false evidence or the existence of new exculpatory evidence, to prosecute a writ of habeas corpus ordering their release. Existing law also authorizes such a person who is no longer in custody to prosecute a motion to vacate a judgment.

Under existing law, if the district attorney stipulates to, or does not contest the factual allegations underlying the application for such a writ or motion, the district attorney is required to provide notice to the Attorney General.

This bill would require such notice to be given no less than seven days before entering a stipulation.

Under existing law, if a writ of habeas corpus or motion to vacate a judgment is granted for specified reasons, the petitioner may move for a finding of factual innocence by a preponderance of the evidence for the purpose of obtaining compensation for the

pecuniary injury sustained through the erroneous conviction and incarceration.

This bill would authorize a person, if the court has granted specified writs of habeas corpus and the charges were subsequently dismissed, or the person was acquitted of the charges on a retrial, to move the court for a finding that they are entitled to compensation. The bill would require the court to grant that motion unless the district attorney can establish by clear and convincing evidence that the person committed the acts constituting the offense and is therefore not entitled to compensation, as specified.

The bill would make other conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1485.5 of the Penal Code is amended to read:

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

(b) The district attorney shall provide notice to the Attorney General no fewer than seven days before entering into a stipulation of facts that will be the basis for the granting of a writ of habeas corpus or a motion to vacate a judgment. A response from the Attorney General is not required to proceed with the stipulation.

(c) In a contested or uncontested proceeding, the express factual findings made by the court, including credibility determinations, during proceedings on a petition for habeas corpus, a motion to vacate judgment pursuant to Section 1473.6, or an application for a certificate of factual innocence, shall be binding on the Attorney General, the factfinder, and the California Victim Compensation Board.

(d) For the purposes of this section, "express factual findings" are findings established as the basis for the court's rulings or orders.

(e) For purposes of this section, "court" is defined as a state or federal court.

SEC. 2. Section 1485.55 of the Penal Code is amended to read:

1485.55. (a) In a contested or uncontested proceeding, if the court has granted a writ of habeas corpus or when the court vacates a judgment, and if the court has found that the person is factually innocent, under any standard for factual innocence applicable in those proceedings, that finding shall be binding on the California Victim Compensation Board for a claim presented to the board, and upon application by the person, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to Section 4904.

(b) In a contested or uncontested proceeding, if the court has granted a writ of habeas corpus or vacated a judgment pursuant to Section 1473.6 or paragraph (2) of subdivision (a) of Section 1473.7, the person may move 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 the petitioner.

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

(d) (1) In a contested or uncontested proceeding, if the court has granted a writ of habeas corpus pursuant to common law, the California Constitution, the United States Constitution, or paragraphs (1) to (3), inclusive, of subdivision (b) of Section 1473, or vacated a judgment pursuant to Section 1473.6 or paragraph (2) of subdivision (a) of Section 1473.7, and the charges were subsequently dismissed, or the person was acquitted of the charges on a retrial, the petitioner may move the court for a finding that they are entitled to compensation pursuant to Chapter 5 (commencing with Section 4900) of Title 6 of Part 3. The court shall issue a finding in favor of compensation unless the district attorney objects in writing within 15 days from when the person files the motion and can establish by clear and convincing evidence that the person committed the acts constituting the offense and is therefore not entitled to compensation. The district attorney shall bear the burden of proving by clear and convincing evidence that the person committed the acts constituting the offense. The district attorney may request a single 30-day extension of time upon a showing of good cause. An extension of time beyond this period may be given if agreed upon by stipulation between both parties.

(2) If the district attorney does not object, or if the district attorney fails to establish by clear and convincing evidence that the person committed the acts constituting the offense as described in paragraph (1), the court shall grant the motion and the board shall, upon application by the person, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.

(3) If the motion is granted pursuant to a stipulation of the district attorney, the duty of the board to, without a hearing, recommend to the Legislature payment of the claim, shall apply.

(e) A conviction reversed and dismissed is no longer valid, thus the district attorney may not rely on the fact that the state still maintains that the claimant is guilty of the crime for which they were wrongfully convicted, that the state defended the conviction against the petitioner through court litigation, or that there was a conviction to establish that the petitioner is not entitled to compensation. The district attorney may also not rely solely on the trial record to establish that the petitioner is not entitled to compensation.

(f) A presumption does not exist in any other proceeding for failure to make a motion or obtain a favorable ruling pursuant to subdivisions (a) and (b). No res judicata or collateral estoppel finding in any other proceeding shall be made for failure to make a motion or obtain a favorable ruling pursuant to subdivision (a) or (b) of this section.

(g) If a federal court, after granting a writ of habeas corpus, pursuant to a nonstatutory motion or request, finds a petitioner factually innocent by no less than 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 the petitioner, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.

(h) For the purposes of this section, unless otherwise stated, "court" is defined as a state or federal court.

SEC. 3. Section 4902 of the Penal Code is amended to read:

4902. (a) If the provisions of Section 851.865 or 1485.55 apply in any claim, the California Victim Compensation Board shall, within 30 days of the presentation of the claim, calculate the compensation for the claimant pursuant to Section 4904 and recommend to the Legislature payment of that sum. As to any claim to which Section 851.865 or 1485.55 does not apply, the Attorney General shall respond to the claim within 60 days or request an extension of time, upon a showing of good cause.

(b) Upon receipt of a response from the Attorney General, the board shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for the hearing. The board shall use reasonable diligence in setting the date for the hearing and shall attempt to set the date for the hearing at the earliest date convenient for the parties and the board.

(c) If the time period for response elapses without a request for extension or a response from the Attorney General pursuant to subdivision (a), the board shall fix a time and place for the hearing of the claim, mail notice thereof to the claimant at least 15 days prior to the time fixed for the hearing, and make a recommendation based on the claimant's verified claim and any evidence presented by the claimant.

(d) If subdivision (b) of Section 4900 applies in any claim, the California Victim Compensation Board shall calculate the compensation for the claimant pursuant to Section 4904 and recommend to the Legislature payment of that sum, unless the Attorney General objects in writing, within 45 days from when the claimant files the claim, with clear and convincing evidence that the claimant is not entitled to compensation. The Attorney General may request a single 45-day extension of time, upon a showing of good cause. An extension of time beyond this period may be given if agreed upon by stipulation between both parties. Time needed to obtain and review juvenile records may establish good cause for additional 45-day extensions upon a showing that through the exercise of due diligence the Attorney General's office is unable to obtain sufficient documents for the review. If the Attorney General declines to object within the allotted period of time, then the board shall issue its recommendation pursuant to Section 4904 within 60 days thereafter. Upon receipt of the objection, the board shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the fixed time for the hearing. At a hearing, the Attorney General shall bear the burden of proving by clear and convincing evidence that the claimant committed the acts constituting the offense. If the Attorney General fails to meet this burden, the board shall recommend to the Legislature payment of the compensation sum calculated pursuant to Section 4904.