

Honolulu, Hawaii

MAR 25 2015

RE: H.B. No. 148
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 148, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WRONGFUL IMPRISONMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to provide redress
to persons wrongfully convicted and imprisoned by the State.
Specifically, this measure:

- (1) Allows a person who is convicted and subsequently
imprisoned for one or more crimes that the person did
not commit or for actions that did not constitute a
crime to petition for a claim of damages against the
State if certain requirements are met;
- (2) Establishes requirements and procedures for a claimant
to present an actionable claim against the State for
wrongful conviction and imprisonment;
- (3) Provides a claimant who was wrongfully convicted and
imprisoned compensation with the following:
 - (A) Damages for the physical injury of wrongful
conviction and imprisonment and damages for time
served on parole, on probation, or as a registered
sex offender;



- (B) Physical, dental, and mental health care for the life of the claimant to be offset by any amount provided through the claimant's employers during that time period;
 - (C) Waiver of or reimbursement for any tuition and fees paid for the secondary education or vocational training of the claimant and any biological children of the claimant who were conceived prior to the claimant's imprisonment for the wrongful conviction;
 - (D) Any child support payments owed by the claimant that became due and any interest on child support arrearages that accrued during the claimant's time imprisoned;
 - (E) Any reasonable costs for immediate services secured upon exoneration and release, provided that such costs are not duplicative of any other eligible immediate services received by the claimant and paid by the State; and
 - (F) Reasonable attorneys' fees for bringing a claim of damages against the State for wrongful conviction and imprisonment;
- (4) Establishes guidelines for awarding damages and expunging records of conviction, procedures to provide notice, time limitations for an action for compensation, and the right to appeal in a civil action;
 - (5) Provides a person who is wrongfully convicted and imprisoned up to three years of immediate services needed upon release at the expense of the State, including costs for housing, education, transportation, subsistence monetary assistance, reintegration services, and health care; and
 - (6) Amends section 831-3.2, Hawaii Revised Statutes, to authorize the Attorney General to issue an expungement order upon the court's finding that a person was wrongfully convicted and imprisoned.



Your Committee received testimony in support of this measure from the Community Alliance on Prisons, Hawaii Innocence Project, and two individuals. Your Committee received testimony in opposition to this measure from the Department of the Attorney General, Hawaii Paroling Authority, and one individual.

Your Committee finds that wrongful convictions may be the result of many causes, including eyewitness misidentification, false confessions, improper forensic science, and government misconduct. Nationally, there are more than fifteen thousand persons listed on the National Registry of Exonerations, including three persons convicted in Hawaii. Innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have been uniquely victimized, have distinct challenges re-entering society, and have difficulty achieving legal redress due to a variety of substantive and technical obstacles in the law. This measure ensures that those persons who were wrongfully convicted and imprisoned by the State receive immediate services upon release and, when able to demonstrate damages under appropriate circumstances, compensation.

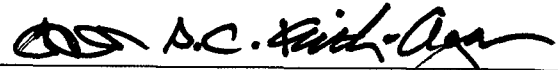
Your Committee has amended this measure by:

- (1) Specifying that any pardon for a crime or crimes shall be on grounds consistent with innocence;
- (2) Clarifying that a petition for relief shall be filed in the circuit court of the circuit in which the claimant lives rather than in which the conviction took place;
- (3) Inserting an effective date of January 1, 2016; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 148, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 148, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,




GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 148 HD2	Committee Referral: JDL, WAM	Date: 3/18/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
THIELEN, Laura H.				✓
SLOM, Sam		✓		
TOTAL	4	1	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center;"></div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes