
OLR Bill Analysis

sHB 6439

AN ACT CONCERNING HABEAS CORPUS REFORM.

SUMMARY:

This bill:

1. makes habeas corpus (a remedy for prisoners who claim that the state is unlawfully detaining them) the exclusive means to challenge the validity of a conviction, sentence, or commitment, with certain exceptions such as appeals;
2. bars a court from deciding a habeas claim if it was raised and decided or could have been raised earlier, with two exceptions;
3. prohibits making ineffective assistance of counsel in an earlier habeas proceeding grounds for a subsequent habeas application;
4. limits when the court can appoint a public defender for an indigent filing a second or subsequent habeas corpus application; and
5. requires the court to make certain findings before a habeas application proceeds to an evidentiary hearing.

The bill applies to any habeas corpus application filed on and after October 1, 2011 regarding a person who claims to be illegally confined or deprived of his or her liberty based on a (1) conviction for an offense (any state, federal, or Connecticut municipal provision punishable by a prison sentence except a motor vehicle violation or infraction) or (2) finding of not guilty by reason of mental disease or defect, when challenging commitment to the Psychiatric Security Review Board's jurisdiction.

Current statutes and court rules do not limit the filing of habeas

petitions. But, under court rules, grounds for a court to dismiss a habeas petition include when the petition presents the same grounds as a prior petition previously denied and fails to state new facts or offer new evidence not reasonably available at the time of the prior petition (Practice Book § 23-29).

EFFECTIVE DATE: October 1, 2011

HABEAS AS EXCLUSIVE REMEDY

The bill makes habeas corpus the exclusive means to challenge the validity of a conviction, sentence, or commitment in place of any common law, statutory, or other remedies available before October 1, 2011. But it does not affect the following:

1. appeals;
2. petitions for a new trial;
3. sentence review by the court's Sentence Review Division (which reviews sentences imposed on offenders sentenced to a prison term of three years or more, at the offender's request);
4. sentence reduction or discharge (the sentencing court or judge can review a sentence of three years or less and, if the state's attorney agrees, a sentence of more than three years); and
5. the sentencing court's common law authority to correct illegal sentences.

ALLOWABLE HABEAS CLAIMS

The bill bars a claim for relief raised in a habeas corpus petition and prohibits a court from deciding it if the claim:

1. was raised and decided in an earlier proceeding on the merits or procedural grounds or
2. could have been raised but was not (a) before sentence was imposed; (b) in a direct appeal; or (c) in a previous habeas corpus proceeding related to the conviction, sentence, or

commitment.

But, the bill allows the court to hear such a claim under the following two circumstances:

1. The applicant set outs facts that, viewed most favorably to him or her, show good cause for the failure to raise the claim earlier and actual prejudice results from the impropriety claimed in the application. An applicant shows good cause by showing (a) objective factors external to the defense that impeded the ability to raise the claim earlier or (b) the claim is based on a new interpretation of federal or state constitutional law by the state or U.S. Supreme Court that was unavailable and applies retroactively to cases on collateral review.
2. The applicant alleges newly discovered evidence that (a) could not have been discovered previously by the applicant's or his or her counsel's due diligence and (b) would establish the applicant's actual innocence of the offense.

Under the bill, "actual innocence" means the applicant did not (1) engage in the conduct for which he or she was convicted or committed, (2) engage in conduct that is a lesser included offense, or (3) commit any other offense or motor vehicle violation arising out of or reasonably connected to the facts supporting the information (the criminal charging document filed by prosecutors against the person) that was the basis for conviction or commitment.

LIMITING ACCESS TO PUBLIC DEFENDERS

Current law allows the court to appoint a public defender, assistant public defender, deputy assistant public defender, or counsel from the trial list to represent an indigent person in a habeas corpus proceeding related to a criminal conviction. The bill allows a court to make such an appointment for an indigent person filing a second or subsequent habeas corpus application only if the:

1. grounds for relief are not frivolous and not procedurally barred;

2. interests of justice will be furthered; and
3. applicant is determined indigent, after an investigation by the public defender's office.

COURT DETERMINATIONS FOR AN EVIDENTIARY HEARING

The bill requires the court to make certain finding before a habeas application proceeds to a hearing (this appears to apply to applications for a public defender as well).

Before scheduling an evidentiary hearing, the court must find that a factual assertion that provides the predicate for a claim is supported by an affidavit or certification showing that the evidence supporting the fact would be admissible in a hearing.

The bill entitles an applicant to an evidentiary hearing if he or she makes a prima facie case and the court finds material issues of disputed fact that cannot be resolved on the existing record and an evidentiary hearing is needed to resolve the claim. A prima facie case requires the applicant to plead facts supported by the affidavit or certification that show a reasonable likelihood that, when viewed most favorably to the applicant, the claim will succeed on the merits.

The bill prohibits a court from holding an evidentiary hearing:

1. if the hearing will not aid the court's analysis of the claim;
2. if the allegations are vague, conclusory, or speculative; or
3. for the applicant to investigate whether additional claims for relief exist for which the applicant has not demonstrated a reasonable likelihood of success as required by the bill.

BACKGROUND

Related Law

The Connecticut Constitution prohibits suspending the privileges of the writ of habeas corpus unless the legislature does so because public safety requires it due to a rebellion or invasion (Art. I, § 12). Similarly, the U.S. Constitution prohibits suspending the privilege of the writ of

habeas corpus except when public safety requires it due to rebellion or invasion (Act. I, § 9).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 24 Nay 21 (04/15/2011)