

Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Chris Holden, Chair  
SB 467 (Wiener) – As Amended May 25, 2022

Policy Committee: Public Safety Vote: 6 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill expands the definition of “false evidence” for the purpose of a habeas corpus petition to include expert testimony that has been undermined by scientific research, even if the research existed at the time of the testimony, and permits a habeas petition to be brought on the basis that there is a reasonable dispute about the science relied upon in support of an expert opinion that was material or probative to an issue at trial.

**FISCAL EFFECT:**

- 1) Costs (General Fund (GF)) of \$19,000 in fiscal year (FY) FY 2022-23, \$36,000 in FYs 2023-2024 and 2024-25, and \$9,000 annually thereafter to the Department of Justice (DOJ) to support anticipated workload addressing new habeas petitions.
- 2) Cost pressures (Trial Court Trust Fund (TCTF)) in the low hundreds of thousands of dollars in increased workload to the trial courts. This bill allows a person to file a habeas petition where there is a significant dispute regarding expert medical, scientific, or forensic testimony introduced at trial and contributed to the conviction. The estimated cost of one eight hour court day is approximately \$8,000. Although it is unknown how many petitions may be filed, however, if 15 petitions require 16 total hours of workload each, the cost would be approximately \$240,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the GF to perform existing duties.
- 3) Cost savings (GF) possibly in the millions to tens of millions of dollars to the California Department of Corrections and Rehabilitation (CDCR) in reduced incarceration costs to the extent people obtain release pursuant to habeas petitions regarding false evidence.

**COMMENTS:**

- 1) **Purpose.** According to the author:

SB 467 simply responds to the reality that forensics science is ever changing and improving and that these advancements and discoveries in the scientific community can be considered in cases where testimony relied on outdated understandings and

applications of forensic science, which ultimately resulted in wrongful convictions.

- 2) **Background.** Existing law allows an incarcerated person to seek habeas corpus relief if, among other bases, false evidence that was substantially material or probative of guilt or punishment was introduced against the person at a hearing or trial. “False evidence” is defined to include expert opinions that have been repudiated by the expert who originally provided the opinion at a hearing or trial or that has been undermined by later scientific research or technological advances. This bill would expand the definition of “false evidence” for purposes of a habeas writ to include an expert opinion that has been undermined by scientific research that existed at the time the expert’s opinion was given – i.e., not just later scientific research or technological advancements.

This change in definition allows evidence of opinions that were based on flawed or outdated scientific research at the time the opinion was given to be challenged by a habeas writ. This bill also allows a person to bring a habeas writ when expert testimony that was material to the issue of guilt or punishment was introduced and a significant dispute has emerged or further developed in their favor which would have more likely than not changed the outcome of their trial. The “significant dispute” may 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 and expertise, have concluded that developments have occurred that undermine the reliability or validity of the basis of the expert’s testimony.

- 3) **Argument in Support.** According to the California Innocence Coalition:

SB 467 creates a new habeas claim to challenge a conviction based on medical, scientific, or forensic evidence whose reliability or validity is now at the heart of a “significant dispute” within the relevant expert community. These habeas challenges are applicable only when the dispute would have more likely than not changed the trial’s outcome. At a time when scientific advancements and scrutiny are casting doubt on certain forensic methods, once considered infallible and certain, and almost always relied upon by a jury, this second fix will help ensure that criminal convictions are upheld only when based on evidence that contemporary scientists agree is reliable and valid.

**Analysis Prepared by:** Kimberly Horiuchi / APPR. / (916) 319-2081