



Substitute Senate Bill No. 439

Public Act No. 24-106

AN ACT CONCERNING COMPENSATION FOR PERSONS WHO ARE WRONGFULLY INCARCERATED.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 54-102uu of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to claims pending before the Claims Commissioner on the effective date of this section or filed with the Claims Commissioner on or after the effective date of this section*):

(a) A person is eligible to receive compensation for wrongful incarceration if:

(1) Such person has been convicted by this state of one or more crimes and has been sentenced to a term of imprisonment for such crime or crimes and has served all or part of such sentence; and

(2) Such person's conviction was (A) vacated or reversed, and [(A)] (B) the complaint or information dismissed on (i) grounds of innocence or grounds consistent with innocence, or [(B) the complaint or information dismissed on] (ii) a ground citing an act or omission that constitutes malfeasance or other serious misconduct by any officer, agent, employee or official of the state that contributed to such person's arrest, prosecution, conviction or incarceration.

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(3) For purposes of this subsection, "grounds consistent with innocence" includes, but is not limited to, a situation in which a conviction was vacated or reversed and there is substantial evidence of innocence, whether such evidence was available at the time of investigation or trial or is newly discovered.

(b) A person who meets the eligibility requirements of subsection (a) of this section may present a claim against the state for such compensation with the Claims Commissioner in accordance with the provisions of chapter 53. The provisions of said chapter shall be applicable to the presentment, hearing and determination of such claim except as otherwise provided in this section.

(c) At the hearing on such claim, [such person] the claimant shall have the burden of establishing by a preponderance of the evidence that such [person] claimant meets the eligibility requirements of subsection (a) of this section. In addition, such [person] claimant shall present evidence as to (1) the [person's] claimant's age, income, vocational training and level of education at the time of conviction, (2) loss of familial relationships, (3) damage to reputation, (4) the severity of the crime for which such [person] claimant was convicted and whether such [person] claimant was under a sentence of death pursuant to section 53a-46a for any period of time, (5) whether such [person] claimant was required to register pursuant to section 54-251 or 54-252, and for what length of time such [person] claimant complied with the registration requirements of chapter 969, and (6) any other damages such [person] claimant may have suffered arising from or related to such [person's] claimant's arrest, prosecution, conviction and incarceration. The Claims Commissioner shall determine whether a claimant meets such eligibility requirements not later than ninety days after such hearing.

(d) (1) If the Claims Commissioner determines that such [person] claimant has established such [person's] claimant's eligibility under subsection (a) of this section by a preponderance of the evidence, the

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Claims Commissioner shall order the immediate payment to such [person] claimant of compensation for such wrongful incarceration in an amount determined pursuant to subdivision (2) of this subsection, unless (A) such compensation award is in an amount exceeding [twenty] thirty-five thousand dollars, or (B) such [person] claimant requests, in accordance with section 4-158, that the General Assembly review such compensation award. [, in which cases the] The Claims Commissioner shall submit any [such claim] such compensation award described in subparagraph (A) or (B) of this subdivision and the claim from which such award arose to the General Assembly in the same manner as provided under section 4-159, not later than five business days after the commissioner issues such award determination [is made or such review is requested] or receives such request for review, whichever is sooner. The General Assembly shall review any such compensation award and the claim from which [it] such award arose not later than forty-five days after such award and claim is submitted to the General Assembly and may deny [such claim] or confirm [or modify] such compensation award, or remand the claim to the Office of the Claims Commissioner for such further proceedings as the General Assembly may direct. [If the General Assembly modifies the amount of the compensation award, the General Assembly may award any amount of compensation the General Assembly deems just and reasonable.] If the General Assembly takes no action on such compensation award, [or the claim from which it arose,] the determination made by the Claims Commissioner shall be deemed confirmed.

(2) (A) In determining the amount of such compensation, the Claims Commissioner shall award an amount that is [at a minimum, but may be up to] two hundred per cent of the median [household] family income for the state for each year [such person] the claimant was incarcerated, as determined by the United States Department of Housing and Urban Development, adjusted for inflation using the consumer price index for urban consumers, provided the amount for

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any partial year shall be prorated in order to compensate only for the portion of such year in which such [person] claimant was incarcerated. The Claims Commissioner may decrease or [further] increase the award amount by twenty-five per cent based on an assessment of relevant factors including, but not limited to, the evidence presented by the [person] claimant under subdivisions (1) to (6), inclusive, of subsection (c) of this section.

(B) The amount of any compensation awarded pursuant to this subdivision shall be offset by the amount of any damages awarded to the claimant resulting from an action by the claimant against any other unit of government within this state by reason of the same subject of the claim.

(e) In addition to the compensation paid under subsection (d) of this section, the Claims Commissioner may order payment for the expenses of employment training and counseling, tuition and fees at any constituent unit of the state system of higher education, [and any other services such person may need to facilitate such person's reintegration into the community.]

(f) Any [person] claimant claiming compensation under this section based on a pardon that was granted or the dismissal of a complaint or information that occurred before October 1, 2008, shall file such claim not later than two years after October 1, 2008. Any [person] claimant claiming compensation under this section based on a pardon that was granted or the dismissal of a complaint or information that occurred on or after October 1, 2008, shall file such claim not later than two years after the date of such pardon or dismissal.

(g) Any person who is compensated pursuant to this section shall sign a release providing that such person voluntarily relinquishes any right to pursue any other action or remedy at law or in equity against the state that such person may have arising out of such wrongful

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conviction and incarceration.

(h) Any damages awarded after an award pursuant to this section to the claimant resulting from an action by the claimant against any other unit of government within this state by reason of the same subject of the claim shall be offset by the amount of the compensation award received under this section.

(i) If a claimant who is deceased would be entitled to compensation under this section if such claimant were living, including a claimant whose conviction was vacated or reversed posthumously, the claimant's estate is entitled to compensation under this section, provided such claimant's claim was pending before the Claims Commissioner at the time of such claimant's death.

(j) Any compensation award and claim from which such award arose that is submitted by the Claims Commissioner to the General Assembly (1) when the General Assembly is not in a regular session, or (2) not more than thirty days before the end of a regular session and which is not acted upon dispositively before the end of such session, shall be deemed to be submitted on the first day of the next regular session.

(k) The provisions of this section shall not apply to any agreement or stipulation pursuant to the provisions of section 3-125a.