



Senate Fiscal Agency
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Senate Bill 997 (as reported without amendment)
Sponsor: Senator Stephanie Chang
Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

The bill would amend the Wrongful Imprisonment Compensation Act to do the following:

- Modify the documentation a plaintiff must provide to bring an action for compensation for wrongful imprisonment.
- Require the plaintiff to establish in a complaint that new evidence would demonstrate that the plaintiff did not commit or assist in a crime, that the conviction was reversed due to lack of evidence, or that new evidence overturned the conviction but relief was granted for another reason.
- Allow the court to consider a plaintiff's entire criminal case record, including evidence unconstitutionally obtained, when determining if the plaintiff had been wrongfully convicted.
- Require the court to consider the difficulties of proof caused by the passage of time, loss of evidence, and unavailability of witnesses in an action under the Act.
- Allow an answer to a complaint to be served and filed within 60 days after service, with opportunity for additional time for the Attorney General to determine if compensation were appropriate before formal discovery began.
- Lower a plaintiff's burden of proof from clear and convincing evidence to a preponderance of the evidence.
- Require the amount awarded for compensation to include time served in pretrial detention.
- Delete a provision allowing a court to award attorney fees only after the plaintiff paid the amount awarded to the attorney.
- Delete a provision specifying that a plaintiff's acceptance of an award of compensation constitutes a complete release of claims against the State.
- Apply provisions governing current awards of compensation to a compromise or settlement of a claim.
- Allow an individual to bring a claim under the Act within 18 months of the bill's effective date, so long as the individual would qualify for an award as a result of the reversal or vacation of a judgement of conviction based on insufficient evidence supporting the conviction and the plaintiff did not perpetrate the crime and was not an accomplice or accessory to the acts that were on the basis of the conviction.

MCL 69.1725 et al.

BRIEF RATIONALE

Generally, the Act allows a plaintiff to bring an action for compensation against the State in the Court of Claims if the plaintiff has been wrongfully convicted and imprisoned for a crime. Currently, a plaintiff must demonstrate that the conviction was reversed based on new evidence to be eligible for compensation. According to testimony, the Act fails to compensate individuals who have experienced wrongful imprisonment for an overturned conviction based on fundamentally unfair trials or previous evidentiary errors, among other bases. Accordingly,

expanding the bases for a wrongfully convicted individual to be eligible for compensation has been suggested.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill likely would result in nominal savings for the State and local governments. The bill's language would encourage efficiency in legal proceedings, with new deadlines for discovery and answers to plaintiff complaints. Delays, or extended court proceedings, are often expensive, so new efficiencies under the bill would likely create indeterminate savings. The bill also would allow for the settlement of claims under the Act, which also would likely expedite court proceedings and create additional, indeterminate savings for the State and reduced attorney fees to be paid by the State, per the language under the Act.

The bill could result in more persons being compensated by the State for wrongful convictions. Currently, a wrongfully convicted and imprisoned person is entitled to compensation equal to \$50,000 per year of wrongful imprisonment. The actual cost to the State is indeterminate and dependent on the number of additional wrongful imprisonment claims for which the State would have to compensate an individual.

Date Completed: 11-27-24

Fiscal Analyst: Joe Carrasco, Jr.
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