

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB640

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Sullivan

3. **Committee:** Courts of Justice

4. **Title:** Wrongful incarceration; compensation.

5. **Summary:** Provides that any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive, in addition to the compensation for wrongful incarceration specified under current law, not less than \$30,000 for each year or fraction thereof (i) of imprisonment after being sentenced to death, (ii) served on parole or post release supervision, or (iii) that such person was required to register with the Sex Offender and Crimes Against Minors Registry. The \$30,000 amount is to be adjusted annually by the percentage increase in the Chained Consumer Price Index for all Urban Consumers (C-CPI-U), as published by the U.S. Bureau of Labor Statistics.

The bill would also modify the existing formula for awarding compensation by basing payments on the Commonwealth's most recent annual median household income, as published by the American Community Survey of the U.S. Census Bureau, instead of a base amount of \$55,000 adjusted annually by C-CPI-U. The bill further requires that the amount paid to the person wrongfully incarcerated shall be in the form of a lump sum; under current law, only the initial 25 percent of an award is required to be paid in lump sum form. The bill would also allow the wrongfully incarcerated person to be awarded other nonmonetary relief sought, including counseling, housing assistance, employment assistance, health care and dental care, and personal financial literacy assistance, as appropriate. If an individual eligible for compensation and benefits under this section is deceased, the individual's estate has standing to be compensated.

The bill removes provisions of the Code that require a person awarded compensation under this article who is subsequently convicted of a felony or subsequently incarcerated to forfeit any further payments from an annuity purchased pursuant to this section, as the bill removes the requirement that an annuity be purchased. The bill also the bar against receiving compensation if such wrongfully incarcerated person received any funds pursuant to a settlement agreement with any person or entity for compensation or damages arising out of the factual situation in connection with the conviction. The bill replaces such requirement with a provision allowing for the wrongful incarceration compensation award to be offset by any such award in a civil action or settlement.

6. **Budget Amendment Necessary:** A budget amendment would be required to award compensation pursuant to the provisions of this bill, however, this bill on its own does not necessitate a budget amendment.
7. **Fiscal Impact Estimates:** Preliminary – see Item 8.
8. **Fiscal Implications:** Under existing law, individuals who have been found to have been wrongfully incarcerated may be awarded compensation equal to \$55,000, adjusted annually by C-CPI-U, for each year of their incarceration. According to the Department of the Treasury (Treasury), the C-CPI-U adjusted amount is currently equal \$60,450. Under the provisions of this bill, the wrongful incarceration compensation would be based on the Commonwealth’s most recent annual median household income as published by the American Community Survey of the U.S. Census Bureau, adjusted annually by C-CPI-U. Treasury indicates that this amount is currently \$87,249. As a result, individuals who are compensated under these provisions would receive an additional \$26,799 for each year they were wrongfully incarcerated.

The bill also provides an additional \$30,000 for each year the individual was imprisoned after being sentenced to death; served on parole or post release supervision; or that such person was required to register on the sex offender registry. This amount is in addition to the wrongful incarceration compensation described above.

Payments under the provisions of this bill would only occur if individuals are found to have been wrongfully incarcerated, and as such any future costs are currently unknown as costs would depend on the circumstances surrounding each individual.

9. **Specific Agency or Political Subdivisions Affected:** Department of the Treasury

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** A similar bill, HB641, provides that any individual wrongfully required to register on the sex offender registry may be awarded compensation for every such year of wrongful registration, based on the existing formula for wrongful incarceration compensation of \$55,000 per year adjusted by C-CPI-U. This bill would provide \$30,000 adjusted by C-CPI-U for each year an individual who was wrongfully incarcerated was required to register on the sex offender registry. HB641 would also provide compensation to an individual who was wrongfully required to register on the sex offender registry.

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