



General Assembly

Substitute Bill No. 460

February Session, 2016

* SB00460JUD__033016__ *

AN ACT CONCERNING COMPENSATION FOR WRONGFUL INCARCERATION.

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

1 Section 1. Section 54-102uu of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective from passage*):

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

5 (1) Such person has been convicted by this state of one or more
6 crimes, of which the person was innocent, has been sentenced to a term
7 of imprisonment for such crime or crimes and has served all or part of
8 such sentence; and

9 (2) Such person's conviction was vacated or reversed and (A) the
10 complaint or information dismissed by a court of competent
11 jurisdiction on grounds of innocence, [or] (B) the complaint or
12 information dismissed by a court of competent jurisdiction on a
13 ground consistent with innocence, or (C) the complaint or information
14 dismissed by a court of competent jurisdiction on a ground citing an
15 act or omission by any officer, agent, employee or official of the state
16 or any political subdivision of the state that contributed to such
17 person's arrest, prosecution, conviction or incarceration.

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

24 (c) At the hearing on such claim, such person shall have the burden
25 of establishing by a preponderance of the evidence that such person
26 meets the eligibility requirements of subsection (a) of this section. In
27 addition, such person shall present evidence as to [the damages
28 suffered by such person which may include, but are not limited to,
29 claims for loss of liberty and enjoyment of life, loss of earnings, loss of
30 earning capacity, loss of familial relationships, loss of reputation,
31 physical pain and suffering, mental pain and suffering and attorney's
32 fees and other expenses] (1) the person's age, income, vocational
33 training and level of education at the time of conviction, (2) loss of
34 familial relationships, (3) damage to reputation, (4) the severity of the
35 crime for which such person was convicted and whether such person
36 was under a sentence of death pursuant to section 53a-46a for any
37 period of time, (5) whether such person was required to register
38 pursuant to section 54-251 or 54-252, and for what length of time such
39 person complied with the registration requirements of chapter 969, and
40 (6) any other damages such person may have suffered arising from or
41 related to such person's arrest, prosecution, conviction and
42 incarceration.

43 (d) (1) If the Claims Commissioner determines that such person has
44 established such person's eligibility under subsection (a) of this section
45 by a preponderance of the evidence, the Claims Commissioner shall
46 order the immediate payment to such person of compensation for such
47 wrongful incarceration in an amount determined pursuant to
48 subdivision (2) of this subsection, unless (A) such compensation award
49 is in an amount exceeding twenty thousand dollars, or (B) such person
50 requests, in accordance with section 4-158, that the General Assembly

51 review such compensation award, in which cases the General
52 Assembly shall review any such compensation award and the claim
53 from which it arose not later than forty-five days after such claim is
54 submitted to the General Assembly and may deny such claim or
55 confirm or modify such compensation award. If the General Assembly
56 modifies the amount of the compensation award, the General
57 Assembly may award any amount of compensation the General
58 Assembly deems just and reasonable. If the General Assembly takes no
59 action on such compensation award or the claim from which it arose,
60 the determination made by the Claims Commissioner shall be deemed
61 confirmed.

62 (2) In determining the amount of such compensation, the Claims
63 Commissioner shall [consider] award an amount based on the median
64 household income for the state for each year such person was
65 incarcerated, as determined by the United States Department of
66 Housing and Urban Development, adjusted for inflation using the
67 consumer price index for urban consumers, provided the amount for
68 any partial year shall be prorated in order to compensate only for the
69 portion of such year in which such person was incarcerated. The
70 Claims Commissioner may increase or decrease the award amount by
71 twenty-five per cent based on an assessment of relevant factors
72 including, but not limited to, the evidence presented by the person
73 under subdivisions (1) to (6), inclusive, of subsection (c) of this section.
74 [as to the damages suffered by such person and whether any
75 negligence or misconduct by any officer, agent, employee or official of
76 the state or any political subdivision of the state contributed to such
77 person's arrest, prosecution, conviction or incarceration.]

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

84 (f) Any person claiming compensation under this section based on a
 85 pardon that was granted or the dismissal of a complaint or information
 86 that occurred before October 1, 2008, shall file such claim not later than
 87 two years after October 1, 2008. Any person claiming compensation
 88 under this section based on a pardon that was granted or the dismissal
 89 of a complaint that occurred on or after October 1, 2008, shall file such
 90 claim not later than two years after the date of such pardon or
 91 dismissal.

92 (g) No person who is compensated pursuant to this section shall
 93 pursue any other action or remedy under state law or in equity against
 94 the state or any officer, agent, employee or official of the state arising
 95 out of such wrongful conviction and incarceration. Nothing in this
 96 section shall be construed to prevent any such person from pursuing
 97 any other action or remedy at law or in equity that such person may
 98 have [against the state and any political subdivision of the state and
 99 any officer, agent, employee or official thereof] arising out of such
 100 wrongful conviction and incarceration.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	54-102uu

Statement of Legislative Commissioners:

In Section 1(a)(2) "by a court of competent jurisdiction" was added for internal consistency, in Section 1(c)(4), the reference to death row was changed to reference a sentence of death for accuracy and Section 1(d)(1) was rewritten for clarity and accuracy.

JUD *Joint Favorable Subst.*