

**Proposed Substitute
Bill No. 460**

LCO No. 3582

**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 Section 54-102uu of the general statutes is repealed and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 on grounds of innocence by a
11 court of competent jurisdiction, [or] (B) the complaint or information
12 dismissed on a ground consistent with innocence by a court of
13 competent jurisdiction, or (C) the complaint or information dismissed
14 on a ground citing an act or omission by any officer, agent, employee
15 or official of the state or any political subdivision of the state that
16 contributed to such person's arrest, prosecution, conviction or
17 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 spent any time on death row, (5) whether such person was required to
37 register pursuant to section 54-251 or 54-252, and for what length of
38 time such person complied with the registration requirements of
39 chapter 969, and (6) any other damages such person may have suffered
40 arising from or related to such person's arrest, prosecution, conviction
41 and incarceration.

42 (d) (1) If the Claims Commissioner determines that such person has
43 established such person's eligibility under subsection (a) of this section
44 by a preponderance of the evidence, the Claims Commissioner shall
45 order the immediate payment to such person of compensation for such
46 wrongful incarceration in an amount determined pursuant to
47 subdivision (2) of this subsection, unless such claim is in an amount
48 exceeding twenty thousand dollars, or such person requests, in
49 accordance with section 4-154, that the General Assembly review such
50 claim, in which case the General Assembly shall review and dispose of
51 any such claim in accordance with section 4-159, except that the

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

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

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

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

85 under this section based on a pardon that was granted or the dismissal
86 of a complaint that occurred on or after October 1, 2008, shall file such
87 claim not later than two years after the date of such pardon or
88 dismissal.

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