



General Assembly

Amendment

February Session, 2016

LCO No. 5407



Offered by:

SEN. COLEMAN, 2nd Dist.

REP. TONG, 147th Dist.

REP. STAFSTROM, 129th Dist.

To: Subst. Senate Bill No. 460

File No. 637

Cal. No. 410

"AN ACT CONCERNING COMPENSATION FOR WRONGFUL INCARCERATION."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 54-102uu of the general statutes is repealed and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

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

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

11 (2) Such person's conviction was vacated or reversed and (A) the
12 complaint or information dismissed on grounds of innocence, or [the

13 complaint or information dismissed on a ground consistent with
14 innocence] (B) the complaint or information dismissed on a ground
15 citing an act or omission that constitutes malfeasance or other serious
16 misconduct by any officer, agent, employee or official of the state that
17 contributed to such person's arrest, prosecution, conviction or
18 incarceration.

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

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

44 (d) (1) If the Claims Commissioner determines that such person has
45 established such person's eligibility under subsection (a) of this section

46 by a preponderance of the evidence, the Claims Commissioner shall
47 order the immediate payment to such person of compensation for such
48 wrongful incarceration in an amount determined pursuant to
49 subdivision (2) of this subsection, unless (A) such compensation award
50 is in an amount exceeding twenty thousand dollars, or (B) such person
51 requests, in accordance with section 4-158, that the General Assembly
52 review such compensation award, in which cases the Claims
53 Commissioner shall submit any such claim to the General Assembly in
54 the same manner as provided under section 4-159, not later than five
55 business days after such award determination is made or such review
56 is requested. The General Assembly shall review any such
57 compensation award and the claim from which it arose not later than
58 forty-five days after such claim is submitted to the General Assembly
59 and may deny such claim or confirm or modify such compensation
60 award. If the General Assembly modifies the amount of the
61 compensation award, the General Assembly may award any amount
62 of compensation the General Assembly deems just and reasonable. If
63 the General Assembly takes no action on such compensation award or
64 the claim from which it arose, the determination made by the Claims
65 Commissioner shall be deemed confirmed.

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

80 the state or any political subdivision of the state contributed to such
81 person's arrest, prosecution, conviction or incarceration.]

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

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

96 (g) [Nothing in this section shall be construed to prevent such
97 person from pursuing] Any person who is compensated pursuant to
98 this section shall sign a release providing that such person voluntarily
99 relinquishes any right to pursue any other action or remedy at law or
100 in equity that such person may have [against the state and any political
101 subdivision of the state and any officer, agent, employee or official
102 thereof] arising out of such 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