



Senate

General Assembly

File No. 527

February Session, 2024

Substitute Senate Bill No. 439

Senate, April 17, 2024

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING COMPENSATION FOR PERSONS WHO ARE WRONGFULLY INCARCERATED.

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 Section 54-102uu of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to claims pending before the Claims Commissioner on the effective*
4 *date of this section or filed with the Claims Commissioner on or after the*
5 *effective date of this section*):

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

8 (1) Such person has been convicted by this state of one or more crimes
9 and has been sentenced to a term of imprisonment for such crime or
10 crimes and has served all or 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
13 grounds consistent with innocence, or (B) the complaint or information

14 dismissed on a ground citing an act or omission that constitutes
15 malfeasance or other serious misconduct by any officer, agent,
16 employee or official of the state that contributed to such person's arrest,
17 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 claim
23 except as otherwise provided in this section.

24 (c) At the hearing on such claim, [such person] the claimant shall have
25 the burden of establishing by a preponderance of the evidence that such
26 [person] claimant meets the eligibility requirements of subsection (a) of
27 this section. In addition, such [person] claimant shall present evidence
28 as to (1) the [person's] claimant's age, income, vocational training and
29 level of education at the time of conviction, (2) loss of familial
30 relationships, (3) damage to reputation, (4) the severity of the crime for
31 which such [person] claimant was convicted and whether such [person]
32 claimant was under a sentence of death pursuant to section 53a-46a for
33 any period of time, (5) whether such [person] claimant was required to
34 register pursuant to section 54-251 or 54-252, and for what length of time
35 such [person] claimant complied with the registration requirements of
36 chapter 969, and (6) any other damages such [person] claimant may
37 have suffered arising from or related to such [person's] claimant's arrest,
38 prosecution, conviction and incarceration. The Claims Commissioner
39 shall determine whether a claimant meets such eligibility requirements
40 not later than ninety days after such hearing.

41 (d) (1) If the Claims Commissioner determines that such [person]
42 claimant has established such [person's] claimant's eligibility under
43 subsection (a) of this section by a preponderance of the evidence, the
44 Claims Commissioner shall order the immediate payment to such
45 [person] claimant of compensation for such wrongful incarceration in
46 an amount determined pursuant to subdivision (2) of this subsection,

47 unless (A) such compensation award is in an amount exceeding
48 [twenty] thirty-five thousand dollars, or (B) such [person] claimant
49 requests, in accordance with section 4-158, that the General Assembly
50 review such compensation award. [, in which cases the] The Claims
51 Commissioner shall submit any [such claim] such compensation award
52 described in subparagraph (A) or (B) of this subdivision and the claim
53 from which such award arose to the General Assembly in the same
54 manner as provided under section 4-159, not later than five business
55 days after the commissioner issues such award determination [is made
56 or such review is requested] or receives such request for review,
57 whichever is sooner. The General Assembly shall review any such
58 compensation award and the claim from which [it] such award arose
59 not later than forty-five days after such award and claim is submitted to
60 the General Assembly and may deny [such claim] or confirm [or
61 modify] such compensation award, or remand the claim to the Office of
62 the Claims Commissioner for such further proceedings as the General
63 Assembly may direct. [If the General Assembly modifies the amount of
64 the compensation award, the General Assembly may award any amount
65 of compensation the General Assembly deems just and reasonable.] If
66 the General Assembly takes no action on such compensation award, [or
67 the claim from which it arose,] the determination made by the Claims
68 Commissioner shall be deemed confirmed.

69 (2) (A) In determining the amount of such compensation, the Claims
70 Commissioner shall award an amount that is [at a minimum, but may
71 be up to] two hundred per cent of the median [household] family
72 income for the state for each year [such person] the claimant was
73 incarcerated, as determined by the United States Department of
74 Housing and Urban Development, adjusted for inflation using the
75 consumer price index for urban consumers, provided the amount for
76 any partial year shall be prorated in order to compensate only for the
77 portion of such year in which such [person] claimant was incarcerated.
78 The Claims Commissioner may decrease or [further] increase the award
79 amount by twenty-five per cent based on an assessment of relevant
80 factors including, but not limited to, the evidence presented by the
81 [person] claimant under subdivisions (1) to (6), inclusive, of subsection

82 (c) of this section.

83 (B) The amount of any compensation awarded pursuant to this
84 subdivision shall be offset by the amount of any damages awarded to
85 the claimant resulting from an action by the claimant against any other
86 unit of government within this state by reason of the same subject of the
87 claim.

88 (e) In addition to the compensation paid under subsection (d) of this
89 section, the Claims Commissioner may order payment for the expenses
90 of employment training and counseling, tuition and fees at any
91 constituent unit of the state system of higher education, [and any other
92 services such person may need to facilitate such person's reintegration
93 into the community.]

94 (f) Any [person] claimant claiming compensation under this section
95 based on a pardon that was granted or the dismissal of a complaint or
96 information that occurred before October 1, 2008, shall file such claim
97 not later than two years after October 1, 2008. Any [person] claimant
98 claiming compensation under this section based on a pardon that was
99 granted or the dismissal of a complaint or information that occurred on
100 or after October 1, 2008, shall file such claim not later than two years
101 after the date of such pardon or dismissal.

102 (g) Any person who is compensated pursuant to this section shall
103 sign a release providing that such person voluntarily relinquishes any
104 right to pursue any other action or remedy at law or in equity against
105 the state that such person may have arising out of such wrongful
106 conviction and incarceration.

107 (h) Any damages awarded after an award pursuant to this section to
108 the claimant resulting from an action by the claimant against any other
109 unit of government within this state by reason of the same subject of the
110 claim shall be offset by the amount of the compensation award received
111 under this section.

112 (i) If a claimant who is deceased would be entitled to compensation

113 under this section if such claimant were living, including a claimant
 114 whose conviction was vacated or reversed posthumously, the claimant's
 115 estate is entitled to compensation under this section, provided such
 116 claimant's claim was pending before the Claims Commissioner at the
 117 time of such claimant's death.

118 (j) Any compensation award and claim from which such award arose
 119 that is submitted by the Claims Commissioner to the General Assembly
 120 (1) when the General Assembly is not in a regular session, or (2) not
 121 more than thirty days before the end of a regular session and which is
 122 not acted upon dispositively before the end of such session, shall be
 123 deemed to be submitted on the first day of the next regular session.

124 (k) The provisions of this section shall not apply to any agreement or
 125 stipulation pursuant to the provisions of section 3-125a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to claims pending before the Claims Commissioner on the effective date of this section or filed with the Claims Commissioner on or after the effective date of this section</i>	54-102uu

Statement of Legislative Commissioners:

Subsec. (h) was rewritten for clarity.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Admin. Serv., Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which makes various changes to the laws governing wrongful incarceration compensation claims filed with the Claims Commissioner, will result in a minimal net cost to the state. The bill expands eligibility criteria for such claims which results in a potential cost associated with an increased number of claims being awarded. There is also potential for some costs to decrease because the bill allows awards to be offset by other compensation awards.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 439*****AN ACT CONCERNING COMPENSATION FOR PERSONS WHO ARE WRONGFULLY INCARCERATED.*****SUMMARY**

This bill makes various changes in the law that governs wrongful incarceration compensation.

Among other things, the bill does the following:

1. expands the eligibility criteria by allowing compensation when the complaint or information is dismissed on grounds consistent with innocence;
2. specifies that the two-year filing deadline also applies from the date the information was dismissed;
3. requires the claims commissioner to determine whether a claimant meets the eligibility requirements within 90 days after the hearing;
4. calculates the award based on the “median family income” instead of the “median household income”;
5. requires compensation awards to be offset by the amount of certain other damages awarded to the claimant;
6. limits payments for reintegration services;
7. increases, from \$20,000 to \$35,000, the threshold for legislative review for claims;
8. eliminates the General Assembly’s authority to modify awards

but allows it to remand the matter to the claims commissioner;

9. provides for a deceased claimant's estate to receive compensation; and
10. specifies that the wrongful incarceration compensation provisions do not apply to certain agreements or stipulations the attorney general enters on behalf of the state.

Lastly, it also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage and applicable to claims pending before the claims commissioner on the bill's passage or filed with the claims commissioner on or after that date.

WRONGFUL INCARCERATION COMPENSATION

Eligibility

By law, a person is eligible for wrongful incarceration compensation if he or she was convicted by the state of one or more crimes and served time for the crime or crimes, the conviction was vacated or reversed, and the complaint or information was dismissed on one of the following grounds:

1. innocence, or
2. malfeasance or serious misconduct by a state officer, agent, employee, or official.

The bill expands the eligibility criteria by allowing compensation when the complaint or information is dismissed on grounds consistent with innocence.

Filing Deadline

Existing law requires individuals to file any claim based on a pardon or dismissal that occurred on or after October 1, 2008, within two years after the pardon was granted or the dismissal of the complaint. The bill makes a conforming change to similarly set the filing deadline from within two years after the information was dismissed.

Hearing Before the Claims Commissioner

By law, a person who meets the eligibility criteria may file a claim against the state for compensation. The person must file the claim with the claims commissioner and, at the hearing, he or she must prove his or her eligibility by a preponderance of the evidence. The bill requires the claims commissioner to determine whether a claimant meets the eligibility requirements within 90 days after the hearing.

Existing law, unchanged by the bill, requires the claimant to present evidence of the following:

1. his or her age, income, vocational training, and level of education at the time of conviction;
2. loss of familial relationships;
3. damage to reputation;
4. the severity of the crime for which he or she was convicted and whether he or she was under a death sentence;
5. whether he or she was required to register as a sex offender and the length of time spent as a registered sex offender; and
6. any other damages suffered that arose from or relate to the arrest, prosecution, conviction, and incarceration.

Determining Compensation

By law, if the commissioner determines that a claimant is eligible for compensation, the commissioner must order immediate payment to the claimant for an amount the commissioner determines after assessing certain relevant factors.

Award Calculation. Current law requires the commissioner to award a claimant, for each year he or she was wrongfully incarcerated, an amount equal to or up to twice the median household income for the state, as determined by the U.S. Department of Housing and Urban Development (HUD), adjusted for inflation using the consumer price

index for urban consumers. The bill uses HUD's "median family income" instead of the "median household income." By law, unchanged by the bill, the award amount must be prorated for any partial year the claimant served in incarceration.

By law, the commissioner may decrease or increase the award amount by 25% based on an assessment of relevant factors, including any of the evidence listed above that the claimant presented at the hearing.

Offset. The bill requires that the amount of the compensation awarded be offset by the amount of any damages awarded to the claimant resulting from an action by the claimant against any other unit of the state government by reason of the same subject of the claim.

Reintegration Services. Current law allows the commissioner to also award payment for any reintegration services the claimant may need. The bill limits this to payment for the expenses of employment training, counseling, and tuition and fees at state colleges and universities.

Legislative Review of Compensation

Under current law, the General Assembly must review a compensation award if the claimant requests a review or the award exceeds \$20,000. The bill increases this threshold to \$35,000.

Current law requires the commissioner to submit the claim to the General Assembly within five business days after the commissioner determines the award or the claimant's request for a review. The bill specifies that this deadline is based on whichever event is sooner.

Under current law, the General Assembly must review any such award and the claim from which it arose within 45 days after receiving the claim and may (1) deny the claim, (2) confirm the award, or (3) modify the award to any amount it deems just and reasonable. Under the bill, the General Assembly may instead (1) deny or confirm the award or (2) remand the claim to the claims commissioner's office for

any further proceedings the General Assembly may direct. Under the bill, the General Assembly may no longer modify the award.

Under current law, if the General Assembly takes no action on the award or the claim, the commissioner's determination is deemed confirmed. The bill clarifies that this pertains to the award only.

Submissions During the Interim or Close to the End of Session

Under the bill, compensation awards and their associated claims must be deemed to be submitted on the first day of the next regular session if the claims commissioner submits them to the General Assembly (1) when the General Assembly is not in a regular session, or (2) 30 or fewer days before the end of a regular session and they are not acted upon dispositively before the end of the session.

Other Actions or Remedies

By law, a compensated claimant must sign a release providing that he or she voluntarily relinquishes the right to pursue any other action or remedy arising from the wrongful conviction and incarceration. The bill limits the applicability of this release to only such actions or remedies against the state.

Future Damages Awarded

Under the bill, any future damages awarded to the claimant resulting from an action by the claimant against any other unit of government within the state by reason of the same subject of the claim must be offset by the compensation award received.

Deceased Claimants

The bill establishes conditions under which a claimant's estate would be entitled to compensation.

Under the bill, if a claimant who is deceased would be entitled to compensation if he or she were alive, including a claimant whose conviction was vacated or reversed posthumously, the claimant's estate is entitled to compensation if the claim was pending before the claims commissioner at the time of the claimant's death.

Applicability of the Law

The bill specifies that the wrongful incarceration compensation provisions do not apply to any agreement or stipulation the attorney general enters in connection with a lawsuit in which the state is a party and that contains provisions requiring more than \$2.5 million of General Fund expenditure. By law, any such agreement or stipulation would require the General Assembly's approval.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 0 (03/28/2024)