

# Judiciary Committee JOINT FAVORABLE REPORT

**Bill No.:** SB-439

AN ACT CONCERNING COMPENSATION FOR PERSONS WHO ARE

**Title:** WRONGFULLY INCARCERATED.

**Vote Date:** 3/28/2024

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/18/2024

**File No.:**

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## **SPONSORS OF BILL:**

Judiciary Committee

## **REASONS FOR BILL:**

For someone wrongfully incarcerated, they often seek compensation to right the wrong. This bill makes various changes to the wrongfully incarcerated statutes including determining eligibility, permitting compensation in the form of services, and many other things.

## **SUBSTITUTE LANGUAGE:**

The substitute language makes numerous changes throughout the bill, including making the effective date applicable to pending claims; making changes concerning process; adding subparagraph (B) to (d)(2) regarding an offset to the compensation award in the case of other awarded damages arising from the same claim; it restores (g) regarding relinquishing right to pursue other remedies against the state arising from the same wrongful incarceration claim; it adds (j) regarding submission to the General Assembly; and adds (k) clarifying that the section doesn't apply to stipulations and agreements pursuant to Sec. 3-125a.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

**William Tong, Attorney General, State of Connecticut:** He offered general comment on the bill, explaining that it will make changes to the statute governing compensation for the wrongfully incarcerated. He stated that the Office of the Attorney General represents the Claims Commissioner in the claims of the wrongfully incarcerated and other matters that are brought before the Claims Commissioner. He further explained that this bill will expand eligibility for compensation to include convictions vacated or reversed on grounds that are consistent with someone being innocent; shorten the timeframe that the Claims Commissioner can decide the incarceration claims and make changes in determining how the

claim is paid and how much; and if compensation will be paid to the estate of the person who died after filing the claim.

#### **NATURE AND SOURCES OF SUPPORT:**

**Robert Meredith, Director of CT Innocence Project/Post Conviction Unit:** He testified in support of this bill. He stated that the CT Innocence Project (CTIP) was created within the Office of Chief Public Defender in the Connecticut Division of Public Defender Services and was combined with the Post Conviction Unit; CTIP investigates cases of the wrongfully incarcerated and seeks their exoneration. He explained that there have been thirty-six exonerations since 1989 and the total number of years lost to those wrongfully incarcerated is 486 years. He stated that the bill is effective from passage and applicable only to claims filed on or after the effective date; as such he requested that the bill be made effective so that people with pending claims are compensated the same. Additionally, he requested that the bill be applied retroactively.

**Molly H. Arabolos, President, Connecticut Criminal Defense Lawyers Association:** She testified in support of this bill, stating that the lives of 35 people in the state who were wrongfully incarcerated had their lives and their family's lives permanently and negatively impacted. She also believes this bill should be retroactive.

**W. James Cousins, Attorney, Centurion Ministries, Inc.:** He testified in support of this bill. He represents the state of Richard LaPointe, an intellectually disabled man, who was wrongfully convicted and incarcerated for the sexual assaulting and murdering of his wife's grandmother in 1987. Mr. Cousins explained that Mr. LaPointe was convicted in 1989 and eventually vacated in 2015 by the Supreme Court, finding the state suppressed material exculpatory evidence. He further explained that he submitted a claim against the state in 2016 but Mr. LaPointe passed away after contracting COVID-19 in 2020. Mr. Cousins testified that the state argues that Mr. LaPointe's claim was extinguished due to his death and there is no ability to pursue it. He stated that Mr. LaPointe's son, his sole beneficiary, was deprived of his father's love, companionship, and physical presence and is now suffering further due to the delays caused by the claim not being heard in a timely manner.

**Marquis Jackson:** He testified in support of this bill. He explained that he served nineteen years of a forty-five-year sentence, but thanks to his faith and his lawyer, he did not have to languish in a Connecticut maximum security prison for a crime he did not commit. He believes the bill will improve Connecticut's system for the wrongfully incarcerated but would like to see it amended to include pending claims; he sees no reason the bill should not apply to these claims.

**David Keenan, Attorney:** He testified in support of this bill with an amendment. He believes this will improve Connecticut's system for compensating the wrongfully accused, however the word "filed" should be replaced with the word "pending". He stated that while he supports the bill, it would be distressing to not include pending claims. He furthered that prison has denied the wrongfully incarcerated their freedom, mental, and physical health, and they should not be deprived of what the State is morally obligated to pay.

**Stefon Morant:** He testified in support of this bill with an amendment. He was wrongfully incarcerated for twenty-one years, and no one would listen. He explained that if you are

wrongfully incarcerated, you are released with no funds or support but if a person is guilty, they are given assistance once they are released from prison through transition support services. He believes there should be help for exonerated people; individuals are left to figure it out for themselves, and some end up taking out high interest loans. He also requested an amendment to the bill to include those who have pending claims.

**Amanda Wallwin, State Policy Advocate, Innocence Project:** She testified in support of this bill, stating that wrongfully incarcerated people spend years behind bars and then spend years trying to prove they are innocent. She added that people who are wrongfully incarcerated miss out on opportunities to build work experience making it difficult to enter the work force and in addition, they miss investing earnings, buying a home, creating a retirement account, and contributing to social security. She believes this bill should include grounds consistent with innocence language, survivors' benefits, a timeline that requires the amount of time someone receives compensation, services they may need upon release, and the litigation bar should be lifted. She also supports an amendment to include those who have pending claims.

**Terence S. Ward, Attorney:** He testified in support of the bill with an amendment. He hopes the legislation will be amended to include all of those who have pending claims. He stated that society has an ethical and moral duty to help those who lost their liberty when they were wrongfully incarcerated. He furthered that this bill should be passed with the amendment because it is the right thing to do.

**Jess Zaccagnino, Policy Counsel, American Civil Liberties Union (ACLU):** She testified in support of this bill, stating that people who are wrongfully incarcerated deserve their day in court. She explained that Connecticut has exonerated thirty-six people who have collectively served 436 years in prison. She stated that this bill would allow those who were wrongfully incarcerated to file federal lawsuits against local municipalities and police in addition to receiving a claim from the state; the current law does not allow a person to sue in federal court if they receive a claim from the state. She added that the ACLU supports this bill with a retroactive amendment to include people who have a pending claim.

#### **NATURE AND SOURCES OF OPPOSITION:**

None expressed.

**Reported by:** Bonnie Gray

**Date:** 4-15-24