

HOUSE BILL No. 4451

March 13, 2013, Introduced by Reps. Switalski, Howrylak, Singh, Dillon, Zemke, Townsend, Cavanagh and McMillin and referred to the Committee on Criminal Justice.

A bill to provide compensation and other relief for individuals wrongfully imprisoned for crimes; to prescribe the powers and duties of certain state governmental officers and agencies; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "wrongful imprisonment compensation act".

3 Sec. 2. As used in this act:

4 (a) "Charges" means the criminal complaint filed against the
5 plaintiff by a county prosecutor or the attorney general on behalf
6 of the people of this state that resulted in the conviction and
7 imprisonment of the plaintiff that are the subject of the claim for
8 compensation under this act.

9 (b) "Plaintiff" means the individual making a claim for

1 compensation under this act. Plaintiff does not include the estate
2 of an individual entitled to make a claim for compensation under
3 this act, the personal representative of the estate, or any heir,
4 devisee, beneficiary, or other person who is entitled under other
5 law to pursue a claim for damages, injury, or death suffered by the
6 individual.

7 (c) "State correctional facility" means a correctional
8 facility maintained and operated by the department of corrections.

9 (d) "This state" means the state of Michigan and its agencies,
10 departments, commissions, and courts. This state does not include a
11 county, township, city, village, school district, district, state
12 authority, or a combination of 2 or more of these entities.

13 Sec. 3. (1) An individual convicted under the law of this
14 state and subsequently imprisoned in a state correctional facility
15 for 1 or more crimes that he or she did not commit may bring an
16 action for compensation against this state in the court of claims
17 as allowed by this act.

18 (2) For purposes of this act, a conviction does not include
19 the acceptance by the court of a guilty plea or a plea of nolo
20 contendere.

21 Sec. 4. (1) In an action under this act, the plaintiff shall
22 attach to his or her verified complaint documentation that
23 establishes all of the following:

24 (a) The plaintiff was convicted of 1 or more crimes under the
25 law of this state, was sentenced to a term of imprisonment in a
26 state correctional facility for the crime or crimes, and served at
27 least part of the sentence.

1 (b) The plaintiff's judgment of conviction was reversed or
2 vacated and either the charges were dismissed or on retrial the
3 plaintiff was found to be not guilty. This act does not apply if
4 the plaintiff was convicted of another criminal offense arising
5 from the same transaction and either that offense was not dismissed
6 or the plaintiff was convicted of that offense on retrial.

7 (c) DNA or equally reliable scientific or physical evidence
8 from which the plaintiff's judgment of conviction was entered
9 demonstrates that the plaintiff was not the perpetrator of the
10 crime and was not an accessory to the acts that were the basis of
11 the conviction and results in the reversal or vacation of the
12 judgment of conviction, dismissal of the charges, or finding of not
13 guilty.

14 (2) A complaint filed under this section shall be verified by
15 the plaintiff.

16 Sec. 5. (1) In an action under this act, the plaintiff is
17 entitled to judgment in the plaintiff's favor if the plaintiff
18 provides clear and convincing evidence to prove all of the
19 following:

20 (a) The plaintiff was convicted of 1 or more crimes under the
21 law of this state, was sentenced to a term of imprisonment in a
22 state correctional facility for the crime or crimes, and served at
23 least part of the sentence.

24 (b) The plaintiff's judgment of conviction was vacated and
25 either the charges were dismissed or the plaintiff was determined
26 upon retrial to be not guilty. This act does not apply if the
27 plaintiff was convicted of another criminal offense arising from

1 the same transaction and either that offense was not dismissed or
2 the plaintiff was convicted of that offense on retrial.

3 (c) DNA or equally reliable scientific or physical evidence
4 from which the plaintiff's judgment of conviction was entered
5 demonstrates that the plaintiff did not perpetrate the crime and
6 was not an accessory to the acts that were the basis of the
7 conviction and results in the reversal or vacation of the charges
8 in the judgment of conviction, dismissal of all of the charges, or
9 a finding of not guilty on all of the charges on retrial.

10 (2) Subject to subsections (4) and (5), if a court finds that
11 a plaintiff was wrongfully convicted and imprisoned, the court
12 shall award compensation as follows:

13 (a) Up to \$60,000.00 for each year from the date the plaintiff
14 was imprisoned until the date the plaintiff was released from
15 prison, regardless of whether the plaintiff was released from
16 imprisonment on parole or because the maximum sentence was served.

17 (b) Economic damages, including, but not limited to, lost
18 wages, costs paid by the plaintiff associated with the plaintiff's
19 criminal defense and efforts to prove his or her innocence, and
20 medical expenses related to the imprisonment required after
21 release.

22 (c) Reasonable attorney fees. The award under this subdivision
23 shall not include any attorney fees or expenses incurred in
24 bringing a previous action that was dismissed. The award under this
25 subdivision shall not be deducted from the compensation awarded the
26 plaintiff, and the plaintiff's attorney is not entitled to receive
27 additional fees from the plaintiff.

1 (3) An award under subsection (2) is not subject to a limit on
2 the amount of damages except as stated in this act.

3 (4) Compensation shall not be awarded under subsection (2) for
4 any time during which the plaintiff was imprisoned under a
5 concurrent or consecutive sentence for another conviction.

6 (5) Compensation shall not be awarded under subsection (2) for
7 any injuries sustained by the plaintiff while imprisoned. The
8 making of a claim or receipt of compensation under this act does
9 not preclude a claim or action for compensation because of injuries
10 sustained by the plaintiff while imprisoned.

11 (6) An award of compensation under this act is not a finding
12 of wrongdoing against anyone. An award of compensation under this
13 act is not admissible in evidence in a civil action that is related
14 to the investigation, prosecution, or conviction that gave rise to
15 the wrongful conviction or imprisonment.

16 (7) The acceptance by the plaintiff of an award under this
17 section, or of a compromise or settlement of the claim, shall be in
18 writing and, unless it is procured by fraud, is final and
19 conclusive on the plaintiff, constitutes a complete release of all
20 claims against this state, and is a complete bar to any action by
21 the plaintiff against this state based on the same subject matter.

22 (8) A compensation award under this section shall not be
23 offset by any of the following:

24 (a) Expenses incurred by this state or any political
25 subdivision of this state, including, but not limited to, expenses
26 incurred to secure the plaintiff's custody or to feed, clothe, or
27 provide medical services for the plaintiff while imprisoned.

1 (b) The value of any services awarded to the plaintiff under
2 this section.

3 (c) The value of any reduction in fees for services awarded to
4 the plaintiff under this section.

5 (9) If a plaintiff who is awarded compensation under this
6 section recovers damages for the wrongful conviction or
7 imprisonment from any other person, the plaintiff shall reimburse
8 this state for compensation paid under this section to the extent
9 of damages recovered from the other person.

10 (10) If a court determines that a plaintiff was wrongfully
11 convicted and imprisoned, the court shall enter an order that
12 provides that any record of the arrest, fingerprints, conviction,
13 and sentence of the plaintiff related to the wrongful conviction
14 shall be expunged from the criminal history record. A document that
15 is the subject of an order entered under this subsection is exempt
16 from disclosure under the freedom of information act, 1976 PA 442,
17 MCL 15.231 to 15.246.

18 Sec. 7. An action for compensation under this act shall be
19 commenced within 3 years after entry of a verdict, order, or
20 judgment as the result of an event described in section 4(1)(b).
21 Any action by this state challenging or appealing a verdict, order,
22 or judgment entered as the result of an event described in section
23 4(1)(b) tolls the 3-year period. An individual convicted,
24 imprisoned, and released from custody before the effective date of
25 this act shall commence an action under this act within 5 years
26 after the effective date of this act.