

# Legislative Analysis



## WRONGFUL IMPRISONMENT COMPENSATION

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**Senate Bill 68 (S-1) as passed by the Senate**

**Sponsor: Sen. Paul Wojno**

**House Committee: Judiciary**

**Senate Committee: Judiciary and Public Safety**

**Complete to 2-17-20**

Analysis available at

<http://www.legislature.mi.gov>

### SUMMARY:

Senate Bill 68 would amend Chapter 64 (Court of Claims) of the Revised Judicature Act to exempt a claim for compensation under the Wrongful Imprisonment Compensation Act from statutes of limitations for filing a claim against the state that could otherwise restrict or bar claims filed under the Wrongful Imprisonment Compensation Act. This would include exempting such a claim from the permanent bar on bringing a claim against the state unless the claim is filed with the clerk of the Court of Claims, or an action commenced on the claim in federal court (as authorized under the Revised Judicature Act), within three years after the claim first accrues. The bill's exemption would apply retroactively to March 29, 2017 (the date the Wrongful Imprisonment Compensation Act became law).

The bill is tie-barred to House Bills 5117 and 5118 (see **Background**, below), and those bills are tie-barred to one another and to Senate Bill 68. A bill cannot take effect unless each bill to which it is tie-barred is also enacted.

MCL 600.6452

### BACKGROUND:

House Bill 5117 would amend the Revised Judicature Act to specify that a claim for compensation under the Wrongful Imprisonment Compensation Act is not subject to a requirement that the claim or notice of intention to file a claim against the state for property damage or personal injuries must be filed with the clerk of the Court of Claims within six months after the event giving rise to the claim.

House Bill 5118 would extend the window during which certain individuals who were wrongfully incarcerated could apply for compensation under the Wrongful Imprisonment Compensation Act.

The legislation is a reintroduction of Senate Bills 895 and 896 of the 2017-18 legislative session.

### FISCAL IMPACT:

Senate Bill 68, taken together with House Bills 5117 and 5118, would approximately result in an additional \$2.8 million owed by the state to 11 individuals who would be eligible to

receive wrongful imprisonment claims under the bills. Funds would be paid from the state restricted Wrongful Imprisonment Compensation Fund (WICF) but would have an indirect future impact on GF/GP when the balance of the WICF is no longer able to support ongoing claims and GF/GP deposits to the fund are needed.

There are 11 wrongful imprisonment claims made against that state that have been dismissed by the Court of Claims for not being made in accordance with the Revised Judicature Act. The act requires all actions brought against the state to file a claim, or notice of intent to file a claim, within six months after the event that gave rise to the claim. The Wrongful Imprisonment Compensation Act gave exonerees either 18 months after the act took effect or 36 months after their convictions were reversed to file a claim, depending on whether they were exonerated before or after the act took effect.

The bills would amend the Revised Judicature Act to extend the periods provided by the Wrongful Imprisonment Compensation Act to permit these 11 wrongful imprisonment compensation claims to be filed. The amount of compensation claimed by the 11 dismissed cases is approximately \$2,689,900. This sum does not include attorney fees and reimbursement costs which are also paid from the WICF to wrongfully imprisoned exonerees. While these additional costs are not yet determined, average costs are approximately 5% of the compensation claim, or \$134,000 in total. As of December 31, 2019, the balance of the WICF was \$8.3 million and there was a total value of \$1,378,500 of known unpaid claims against the state, not including attorney fees and costs. The addition of the 11 dismissed claims would bring the potential liability to the WICF up to approximately \$4.2 million.

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