



Senate Fiscal Agency
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Senate Bill 68 (as enrolled)
House Bills 5117 and 5118 (as enrolled)
Sponsor: Senator Paul Wojno (S.B. 68)
Representative Kyra Harris Bolden (H.B. 5117)
Representative Julie Calley (H.B. 5118)
Senate Committee: Judiciary and Public Safety
House Committee: Judiciary

Date Completed: 3-2-20

RATIONALE

In 2016, the Wrongful Imprisonment Compensation Fund was created to compensate individuals who were wrongfully convicted and imprisoned. The Act specifies that an individual convicted, imprisoned, and released from custody before the Act took effect on March 29, 2017, had to commence an action within 18 months after that date. In 2018, however, the Court of Claims ruled that claims brought under the Wrongful Imprisonment Compensation Act are considered actions for personal injuries, and are subject to the six-month notice of intention to file a claim requirement under Section 6431 of the Revised Judicature Act. *Montgomery v. Michigan*, unpublished opinion of the Michigan Court of Claims, Docket No. 342737 (2018) (see **BACKGROUND** for more information). Some people believe that six months is not an adequate amount of time for a person to file a claim or provide notice of intent to file a claim under the Wrongful Imprisonment Compensation Act. Accordingly, it has been suggested that those claims be exempt from the six-month notice of intent requirement under Section 6431.

CONTENT

Senate Bill 68 would amend Chapter 64 of the Revised Judicature Act to specify that the periods of limitations for claims against the State would not apply to a claim for compensation under the Wrongful Imprisonment Compensation Act.

House Bill 5117 would amend the Chapter 64 of the Revised Judicature Act to specify that the requirement to file a claim or notice of intent to file a claim with the Court of Claims within six months after the event that gives rise to the claim would not apply to a claim for compensation under the Wrongful Imprisonment Compensation Act.

House Bill 5118 would amend the Wrongful Imprisonment Compensation Act to specify that a person convicted, imprisoned, and released from custody before March 29, 2017, would have to commence an action under the Act within 18 months after the bill's effective date.

The bills are tie-barred. Sections 6452 and 6431 of the Revised Judicature Act, as amended by Senate Bill 68 and House Bill 5117, respectively, and Section 7 of the Wrongful Imprisonment Compensation Act, as amended by House Bill 5118, would apply retroactively to March 29, 2017 (the effective date of the Wrongful Imprisonment Compensation Act).

Senate Bill 68

Under Section 6452 of the Revised Judicature Act, every claim against the State, cognizable by the Court of Claims, is forever barred unless it is filed with the clerk of the Court or a suit is brought on the claim in Federal court, within three years after the claim first accrues. Except as otherwise provided, Chapter 58 (Limitation of Actions) of the Act also applies to the limitation prescribed in Section 6452. (Chapter 58 establishes the periods of limitations for various actions, which limit the time a person has to bring an action.)

The bill specifies that Section 6452 would not apply to a claim for compensation under the Wrongful Imprisonment Compensation Act.

House Bill 5117

Section 6431 of the Revised Judicature Act specifies that a claim may not be maintained against the State unless the claimant, within one year after the claim has accrued, files with the clerk of the Court of Claims either a written claim or a written notice of intention to file a claim against the State or any of its departments, commissions, boards, institutions, arms, or agencies. The notice must include a signature and verification by the claimant before an officer authorized to administer oaths, a statement of the time and place where the claim arose, a statement of the nature of the claim, and a designation of the department, commission, board, institution, arm, or agency involved in connection with the claim. Also, if the claim is for property damage or personal injuries, the claim or notice must be filed within six months after the event that gives rise to the claim.

The bill specifies that Section 6431 would not apply to a claim for compensation under the Wrongful Imprisonment Compensation Act.

House Bill 5118

Under the Wrongful Imprisonment Compensation Act, an individual convicted under the law of the State and subsequently imprisoned in a State correctional facility for one or more crimes that he or she did not commit may bring an action for compensation against the State in the Court of Claims.

An action for compensation under the Act must be commenced within three years after entry of a verdict, order, or judgment as the result of an event described in the Act: the plaintiff's judgment of conviction was reversed or vacated and either the charges were dismissed or on retrial the plaintiff was found to be not guilty.

An individual convicted, imprisoned, and released from custody before the Act took effect on March 29, 2017, must commence an action within 18 months after that date.

Under the bill, a person convicted, imprisoned, and released from custody before March 29, 2017, would have to commence an action under the Act within 18 months after the bill's effective date.

MCL 600.6452 (S.B. 68)
600.6431 (H.B. 5117)
691.1757 (H.B. 5118)

BACKGROUND

In *Montgomery*, roughly seven months after the Wrongful Imprisonment Compensation Act took effect, the plaintiff filed with the Court of Claims seeking recovery under the Act. The State moved for summary disposition claiming that the plaintiff failed to file a notice of intent to file with the Court as required under Section 6431 of the Revised Judicature Act. The plaintiff, however, argued that the timing requirements under Section 6431 do not apply to claims under the Wrongful Imprisonment Compensation Act.

In its decision, the Court of Claims noted that Section 6431 is clear and unambiguous that all actions filed with the Court are subject to the notice of intent requirements. The Court then went on to consider whether a claim brought under the Wrongful Imprisonment Compensation Act falls under the scope of an action for "personal injuries" under Section 6431. The Court first explained that Section 6431 is "meant to apply broadly to any and all actions involving all types of personal injuries—not just those actions alleging physical or bodily harm". The Court furthered explained that given the broad interpretation of "personal injury", the term includes reputational harm, false imprisonment, and any other invasion of a personal right. The Court noted that because a claim under the Wrongful Imprisonment Compensation Act "at its core" permits a means of recovery for an invasion of a personal right, that action has at least some elements of a personal injury action. Therefore, the Court concluded that an action brought under the Wrongful Imprisonment Compensation Act is one for personal injuries and is subject to the six-month notice requirement under Section 6431.

The case currently is pending before the Court of Appeals.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills are technical fix to the Wrongful Imprisonment Compensation Act. The Act allows individuals who were convicted and sent to prison for crimes they did not commit to file compensation claims for wrongful imprisonment. The Act took effect on March 29, 2017, and granted anyone who was exonerated before the Act took effect an additional 18 months to file a claim. In *Montgomery*, however, the Court of Claims determined that the six-month notice requirement under Section 6431 of the Revised Judicature Act takes precedence over the 18-month filing period under the Wrongful Imprisonment Compensation Act. This means that anyone who did not file before September 29, 2017, is barred from filing a claim for compensation. Since the Court of Claims ruling, as of February 2020, 10 exonerated individuals have had claims brought under the Wrongful Imprisonment Compensation Act dismissed for failure to file a notice of intent within the six-month timeframe specified in Section 6431.¹

Six months is not an adequate amount of time for a claimant to find legal representation and for his or her attorney to work on the claim. These claims often are complex and require extensive research and resources. The bills would ensure that all those who have had their claims dismissed and those who have not yet filed a claim to have the opportunity to remedy their wrongful conviction and imprisonment.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the State and no fiscal impact on local units of government. Senate Bill 68 would prevent a six-month filing deadline found in the Revised Judicature Act, specifically in MCL 600.6431 and 600.6452, from applying to the Wrongful Imprisonment Compensation Act. House Bill 5118 would extend the filing deadline for prisoners exonerated before the Act took effect for another 18 months after enactment of the bill. The Act went into effect March 29, 2017, and gave those exonerated prisoners 18 months to file compensation claims for wrongful imprisonment at \$50,000 per year for time spent in prison, plus allowances for fines and attorneys' fees.

¹ Savino, Cory, "Wrongful Imprisonment Compensation Fund", Senate Fiscal Agency, *OneFAB*, February 2020.

Currently, the Wrongful Imprisonment Compensation Fund has a balance of \$8.1 million, with \$4.3 million in identified cases that could receive a compensation. Claims totaling \$2.6 million had previously been dismissed by the Attorney General because of the claimants' failure to file within the timeframe of the Revised Judicature Act. The bills could allow additional settlements to be paid out of the Fund by those claims that had previously been dismissed for failing to meet the filing deadline. Currently, there is a sufficient balance in the Fund to pay those previously dismissed claims.

Fiscal Analyst: Cory Savino
Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.