

By the Committee on Criminal Justice; and Senator Joyner

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1 A bill to be entitled
2 An act relating to compensation for wrongful
3 incarceration; amending s. 961.02, F.S.; defining the
4 term "actual innocence" for purposes of the Victims of
5 Wrongful Incarceration Compensation Act; redefining
6 the term "wrongfully incarcerated person" in order to
7 conform; amending s. 961.03, F.S.; requiring that a
8 petition for compensation include clear and convincing
9 evidence of actual innocence; requiring the petitioner
10 to submit fingerprints for criminal history records
11 checks; providing that a failure to submit
12 fingerprints within the prescribed timeframe does not
13 warrant denial of compensation under the act;
14 providing procedures for taking and submitting
15 fingerprints; requiring that the results of the
16 criminal history records checks be submitted to the
17 clerk of the court; providing for use of the results
18 by the court; specifying who will pay for the criminal
19 history records checks; amending s. 961.05, F.S.;
20 eliminating the requirement that a wrongfully
21 incarcerated person provide certain court records and
22 documentation from the Department of Corrections along
23 with an application for compensation; requiring the
24 Department of Legal Affairs to request certain records
25 from the clerk of the court and the Department of
26 Corrections; amending s. 961.06, F.S.; providing for
27 compensation of reasonable attorney's fees and
28 expenses, up to \$50,000, incurred for pursuing
29 compensation for wrongful incarceration; directing the

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30 Chief Financial Officer to remit payment of attorney's
31 fees directly to the attorney; precluding the attorney
32 from receipt of additional fees from the wrongfully
33 incarcerated person; requiring the Chief Financial
34 Officer to draw a warrant to an insurance company or
35 other financial institution authorized to issue
36 annuity contracts to purchase an annuity selected by
37 the wrongfully incarcerated person; authorizing the
38 Chief Financial Officer to execute all necessary
39 agreements to implement compensation and to maximize
40 the benefit to the wrongfully incarcerated person;
41 requiring the wrongfully incarcerated person to sign a
42 waiver prior to the department's approval of the
43 application; precluding submission of an application
44 for compensation if the wrongfully incarcerated person
45 has received a prior favorable judgment from a civil
46 action arising out of the wrongful incarceration;
47 providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 961.02, Florida Statutes, is amended to
52 read:

53 961.02 Definitions.—As used in ss. 961.01-961.07, the term:

54 (1) "Act" means the Victims of Wrongful Incarceration
55 Compensation Act.

56 (2) "Actual innocence" means that a person did not commit
57 the act or the offense that served as the basis for the
58 conviction and incarceration for which the person seeks

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59 compensation, and that the person did not aid, abet, or act as
60 an accomplice to a person who committed the act or offense.

61 (3)-(2) "Department" means the Department of Legal Affairs.

62 (4)-(3) "Division" means the Division of Administrative
63 Hearings.

64 (5)-(4) "Wrongfully incarcerated person" means a person
65 whose felony conviction and sentence have been vacated by a
66 court of competent jurisdiction and, with respect to whom
67 pursuant to the requirements of s. 961.03, the original
68 sentencing court has issued its order finding that the person
69 has proven actual innocence by clear and convincing evidence
70 ~~neither committed the act nor the offense that served as the~~
71 ~~basis for the conviction and incarceration and that the person~~
72 ~~did not aid, abet, or act as an accomplice or accessory to a~~
73 ~~person who committed the act or offense.~~

74 (6)-(5) "Eligible for compensation" means a person meets the
75 definition of "wrongfully incarcerated person" and is not
76 disqualified from seeking compensation under the criteria
77 prescribed in s. 961.04.

78 (7)-(6) "Entitled to compensation" means a person meets the
79 definition of "eligible for compensation" and satisfies the
80 application requirements prescribed in s. 961.05, and may
81 receive compensation pursuant to s. 961.06.

82 Section 2. Section 961.03, Florida Statutes, is amended to
83 read:

84 961.03 Determination of status as a wrongfully incarcerated
85 person; determination of eligibility for compensation.—

86 (1)(a) In order to meet the definition of a "wrongfully
87 incarcerated person" and "eligible for compensation," upon entry

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88 of an order, based upon exonerating evidence, vacating a
89 conviction and sentence, a person must set forth the claim of
90 wrongful incarceration under oath and with particularity by
91 filing a petition with the original sentencing court, with a
92 copy of the petition and proper notice to the prosecuting
93 authority in the underlying felony for which the person was
94 incarcerated. At a minimum, the petition must:

95 1. State that clear and convincing ~~verifiable and~~
96 ~~substantial~~ evidence of actual innocence exists and state with
97 particularity the nature and significance of the clear and
98 convincing ~~verifiable and substantial~~ evidence of actual
99 innocence; and

100 2. State that the person is not disqualified, under ~~the~~
101 ~~provisions of~~ s. 961.04, from seeking compensation under this
102 act.

103 (b) The person must file the petition with the court:

104 1. Within 90 days after the order vacating a conviction and
105 sentence becomes final if the person's conviction and sentence
106 is vacated on or after July 1, 2008.

107 2. By July 1, 2010, if the person's conviction and sentence
108 was vacated by an order that became final prior to July 1, 2008.

109 (c)1. Within 30 days after filing the petition, the
110 petitioner must submit fingerprints for a state and national
111 criminal history records check. Failure to satisfy this
112 subparagraph within the prescribed timeframe is not grounds for
113 denial of compensation under this act.

114 2. The clerk of the court shall inform the petitioner of
115 the process for having his or her fingerprints taken and
116 submitted and provide information concerning law enforcement

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117 agencies or service providers that are authorized to submit
118 fingerprints electronically to the Department of Law
119 Enforcement.

120 3. The petitioner's fingerprints must be taken in a manner
121 approved by the Department of Law Enforcement and shall be
122 submitted electronically to the Department of Law Enforcement
123 for state processing for a criminal history records check. The
124 Department of Law Enforcement shall submit the fingerprints to
125 the Federal Bureau of Investigation for national processing. The
126 Department of Law Enforcement shall submit the results of the
127 state and national records check to the clerk of the court. The
128 court shall consider the results in evaluating whether the
129 petitioner is eligible for compensation under s. 961.04.

130 4. The petitioner may not be charged for the cost of
131 conducting the state and national criminal history records
132 checks required under this paragraph. The cost of state and
133 national processing shall be absorbed by the Department of Law
134 Enforcement.

135 (2) The prosecuting authority must respond to the petition
136 within 30 days. The prosecuting authority may respond:

137 (a) By certifying to the court that, based upon the
138 petition and ~~verifiable and substantial~~ evidence of actual
139 innocence, no further criminal proceedings in the case at bar
140 can or will be initiated by the prosecuting authority, and that
141 the prosecuting authority does not contest ~~no questions of fact~~
142 ~~remain as to the petitioner's claim of actual innocence wrongful~~
143 ~~incarceration, and that the petitioner is not ineligible from~~
144 ~~seeking compensation under the provisions of s. 961.04; or~~

145 (b) By certifying to the court that questions of fact

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146 remain as to the petitioner's claim of actual innocence, and
147 that the prosecuting authority contests ~~contesting~~ the nature,
148 significance, or effect of the evidence of actual innocence, ~~the~~
149 ~~facts related to the petitioner's alleged wrongful~~
150 ~~incarceration, or whether the petitioner is ineligible from~~
151 ~~seeking compensation under the provisions of s. 961.04.~~

152 (3) If the prosecuting authority certifies to the court
153 that it does not contest the petitioner's claim of actual
154 innocence, and the court finds that the petitioner has proven
155 actual innocence by clear and convincing evidence and is
156 eligible for compensation under s. 961.04 ~~responds as set forth~~
157 ~~in paragraph (2) (a), the original sentencing court, based upon~~
158 ~~the evidence of actual innocence, the prosecuting authority's~~
159 ~~certification, and upon the court's finding that the petitioner~~
160 ~~has presented clear and convincing evidence that the petitioner~~
161 ~~committed neither the act nor the offense that served as the~~
162 ~~basis for the conviction and incarceration, and that the~~
163 ~~petitioner did not aid, abet, or act as an accomplice to a~~
164 ~~person who committed the act or offense, the original sentencing~~
165 court shall certify to the department that the petitioner is a
166 wrongfully incarcerated person who is eligible for compensation
167 as defined by this act. Based upon the prosecuting authority's
168 certification, the court shall also certify to the department
169 that the petitioner is eligible for compensation under the
170 provisions of s. 961.04.

171 (4) (a) If the prosecuting authority contests the
172 petitioner's claim of actual innocence ~~responds as set forth in~~
173 ~~paragraph (2) (b), the original sentencing court shall make a~~
174 ~~determination from the pleadings and supporting documentation~~

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175 whether, ~~by a preponderance of the evidence,~~ the petitioner is
176 eligible ~~ineligible~~ for compensation under ~~the provisions of s.~~
177 961.04, regardless of his or her claim of wrongful
178 incarceration. If the court finds the petitioner ineligible
179 under ~~the provisions of s. 961.04,~~ it shall dismiss the
180 petition.

181 (b) If the court determines that the petitioner is eligible
182 under s. 961.04 ~~prosecuting authority responds as set forth in~~
183 ~~paragraph (2) (b), and the court determines that the petitioner~~
184 ~~is eligible under the provisions of s. 961.04,~~ but the
185 prosecuting authority contests the nature, significance, or
186 effect of the evidence of actual innocence, ~~or the facts related~~
187 ~~to the petitioner's alleged wrongful incarceration,~~ the court
188 shall set forth its findings and transfer the petition to the
189 division for findings of fact and a recommended determination of
190 whether the petitioner has proven actual innocence ~~established~~
191 ~~that he or she is a wrongfully incarcerated person who is~~
192 ~~eligible for compensation under this act.~~

193 (5) The petitioner must prove actual innocence before the
194 administrative law judge by clear and convincing evidence. ~~Any~~
195 ~~questions of fact, the nature, significance or effect of the~~
196 ~~evidence of actual innocence, and the petitioner's eligibility~~
197 ~~for compensation under this act must be established by clear and~~
198 ~~convincing evidence by the petitioner before an administrative~~
199 ~~law judge.~~

200 (6) (a) Pursuant to division rules and any additional rules
201 set forth by the administrative law judge, a hearing shall be
202 conducted no later than 120 days after the transfer of the
203 petition to the division.

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204 (b) The prosecuting authority shall appear for the purpose
205 of contesting, as necessary, the facts, the nature, and
206 significance or effect of the evidence of actual innocence as
207 presented by the petitioner.

208 (c) No later than 45 days after the adjournment of the
209 hearing, the administrative law judge shall issue an order
210 setting forth his or her findings and recommendation and shall
211 file the order with the original sentencing court.

212 (d) The original sentencing court shall review the findings
213 and recommendation contained in the order of the administrative
214 law judge and, within 60 days, shall issue its own order
215 adopting or declining to adopt the findings and recommendation
216 of the administrative law judge.

217 (7) If the court concludes that the petitioner is a
218 wrongfully incarcerated person as defined by this act and is
219 eligible for compensation as defined in this act, the court
220 shall include in its order a certification to the department
221 that:

222 (a)1. The order of the administrative law judge finds that
223 the petitioner has met his or her burden of proving actual
224 innocence ~~establishing~~ by clear and convincing evidence ~~that the~~
225 ~~petitioner committed neither the act nor the offense that served~~
226 ~~as the basis for the conviction and incarceration and that the~~
227 ~~petitioner did not aid, abet, or act as an accomplice to a~~
228 ~~person who committed the act or offense;~~

229 2. The findings and recommendation of the administrative
230 law judge on which its order is based are supported by
231 competent, substantial evidence; and

232 3. The petitioner is a wrongfully incarcerated person who

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233 is eligible for compensation; or

234 ~~(b)2. That~~ The court has declined to adopt the findings and
235 recommendation ~~recommendations~~ of the administrative law judge
236 that the petitioner failed to prove actual innocence by clear
237 and convincing evidence and finds that the petitioner has met
238 his or her burden of proving actual innocence ~~establishing~~ by
239 clear and convincing evidence, and that the petitioner is a
240 wrongfully incarcerated person who is eligible for compensation.

241 ~~that the petitioner committed neither the act nor the offense~~
242 ~~that served as the basis for the conviction and incarceration~~
243 ~~and that the petitioner did not aid, abet, or act as an~~
244 ~~accomplice to a person who committed the act or offense; and~~

245 ~~(b) The original sentencing court determines the findings~~
246 ~~and recommendations on which its order is based are supported by~~
247 ~~competent, substantial evidence.~~

248 (8) The establishment of the method by which a person may
249 seek the status of a wrongfully incarcerated person and a
250 finding as to eligibility for compensation under this act in no
251 way creates any rights of due process beyond those set forth in
252 this act herein, nor is there created any right to further
253 petition or appeal beyond the scope of the method set forth in
254 this act herein.

255 Section 3. Section 961.05, Florida Statutes, is amended to
256 read:

257 961.05 Application for compensation for wrongful
258 incarceration; administrative expunction; determination of
259 entitlement to compensation.—

260 (1) A wrongfully incarcerated person who is eligible for
261 compensation as defined in this act must initiate his or her

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262 application for compensation as required in this section no more
263 than 2 years after the original sentencing court enters its
264 order finding that the person meets the definition of a
265 wrongfully incarcerated person and is eligible for compensation
266 as defined in this act.

267 (2) A wrongfully incarcerated person who is eligible for
268 compensation under the act must apply to the Department of Legal
269 Affairs. No estate of, or personal representative for, a
270 decedent is entitled to apply on behalf of the decedent for
271 compensation for wrongful incarceration.

272 (3) The Department of Legal Affairs may adopt rules
273 regarding the forms and procedures related to applications for
274 compensation under this act ~~the Victims of Wrongful~~
275 ~~Incarceration Compensation Act.~~

276 (4) The application must include:

277 (a) Identification of the original sentencing court and the
278 criminal case number of the case or cases for which the person
279 was wrongfully incarcerated ~~A certified copy of the order~~
280 ~~vacating the conviction and sentence;~~

281 ~~(b) A certified copy of the original sentencing court's~~
282 ~~order finding the claimant to be a wrongfully incarcerated~~
283 ~~person who is eligible for compensation under this act;~~

284 ~~(c) Certified copies of the original judgment and sentence;~~

285 ~~(d) Documentation demonstrating the length of the sentence~~
286 ~~served, including documentation from the Department of~~
287 ~~Corrections regarding the person's admission into and release~~
288 ~~from the custody of the Department of Corrections;~~

289 ~~(b)(e) Positive proof of identification, including two full~~
290 ~~sets of fingerprints administered by a law enforcement agency~~

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291 ~~and~~ a current form of photo identification, demonstrating that
292 the person seeking compensation is the same individual who was
293 wrongfully incarcerated;

294 (c) ~~(f)~~ All supporting documentation of any fine, penalty,
295 or court costs imposed and paid by the wrongfully incarcerated
296 person as described in s. 961.06(1)(c);

297 (d) ~~(g)~~ All supporting documentation of any reasonable
298 attorney's fees and expenses as described in s. 961.06(1)(d);
299 and

300 (e) ~~(h)~~ Any other documentation, evidence, or information
301 required by rules adopted by the department.

302 (5) Upon receipt of the application, the department shall:
303 ~~forward one full set of fingerprints of the applicant to the~~
304 ~~Department of Law Enforcement for statewide criminal records~~
305 ~~checks. The Department of Law Enforcement shall forward the~~
306 ~~second set of fingerprints to the Federal Bureau of~~
307 ~~Investigation for national criminal records checks. The results~~
308 ~~of the state and national records checks shall be submitted to~~
309 ~~the department.~~

310 (a) Request that the clerk of the court provide a certified
311 copy of the order vacating the conviction and sentence and
312 certified copies of the original judgment and sentence. The
313 clerk shall provide these records at no charge.

314 (b) Request that the Department of Corrections provide
315 documentation demonstrating the length of the sentence served,
316 including the dates of the wrongfully incarcerated person's
317 admission into and release from the custody of the Department of
318 Corrections. The Department of Corrections shall provide this
319 documentation at no charge.

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320 ~~(c)(6)~~ Upon receipt of an application, the department shall
321 Examine the application and notify the wrongfully incarcerated
322 person claimant within 30 calendar days of any errors or
323 omissions, and request any additional information relevant to
324 the review of the application. The wrongfully incarcerated
325 person claimant shall have 15 days after proper notification of
326 any existing errors or omissions to supplement the application.
327 The department may not deny an application for failure of the
328 wrongfully incarcerated person claimant to correct an error or
329 omission or supply additional information unless the department
330 timely notified the person claimant of such errors or omissions
331 or requested the additional information within the 30-day period
332 specified in this subsection. The department shall process and
333 review each completed application within 90 calendar days. Once
334 the department determines whether a claim for compensation meets
335 the requirements of this act, the department shall notify the
336 wrongfully incarcerated person claimant within 5 business days
337 of that determination.

338 ~~(6)(7)~~ If the department determines that a wrongfully
339 incarcerated person claimant meets the requirements of this act,
340 the wrongfully incarcerated person ~~who is the subject of the~~
341 ~~claim~~ becomes entitled to compensation, subject to ~~the~~
342 ~~provisions in s. 961.06.~~

343 Section 4. Section 961.06, Florida Statutes, is amended to
344 read:

345 961.06 Compensation for wrongful incarceration.—

346 (1) Except as otherwise provided in this act and subject to
347 the limitations and procedures prescribed in this section, a
348 person who is found to be entitled to compensation under ~~the~~

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349 ~~provisions~~ of this act is entitled to:

350 (a) Monetary compensation for wrongful incarceration, which
351 shall be calculated at a rate of \$50,000 for each year of
352 wrongful incarceration, prorated as necessary to account for a
353 portion of a year. For persons found to be wrongfully
354 incarcerated after December 31, 2008, the Chief Financial
355 Officer may adjust the annual rate of compensation for inflation
356 using the change in the December-to-December "Consumer Price
357 Index for All Urban Consumers" of the Bureau of Labor Statistics
358 of the Department of Labor;

359 (b) A waiver of tuition and fees for up to 120 hours of
360 instruction at any career center established under s. 1001.44,
361 any community college as defined in s. 1000.21(3), or any state
362 university as defined in s. 1000.21(6), if the wrongfully
363 incarcerated person meets and maintains the regular admission
364 requirements of such career center, community college, or state
365 university; remains registered at such educational institution;
366 and makes satisfactory academic progress as defined by the
367 educational institution in which the wrongfully incarcerated
368 person ~~claimant~~ is enrolled;

369 (c) The amount of any fine, penalty, or court costs ~~imposed~~
370 ~~and~~ paid by the wrongfully incarcerated person;

371 (d) The amount of any reasonable attorney's fees and expenses
372 incurred and paid by the wrongfully incarcerated person in
373 connection with all criminal proceedings and appeals regarding
374 the wrongful conviction, to be calculated by the department
375 based upon the supporting documentation submitted as
376 specified in s. 961.05; ~~and~~

377 (e) The amount of any reasonable attorney's fees and

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378 expenses incurred by the wrongfully incarcerated person in
379 connection with obtaining compensation under this act, not to
380 exceed \$50,000, to be calculated by the department upon the
381 submission of supporting documentation of those fees and
382 expenses. The Chief Financial Officer shall pay the attorney's
383 fees and costs directly to the attorney, and the attorney may
384 not receive additional fees and costs from the wrongfully
385 incarcerated person by another arrangement or contract; and

386 (f) ~~(e)~~ Notwithstanding any provision to the contrary in s.
387 943.0585, immediate administrative expunction of the wrongfully
388 incarcerated person's criminal record resulting from his or her
389 wrongful arrest, wrongful conviction, and wrongful
390 incarceration. The Department of Legal Affairs and the
391 Department of Law Enforcement shall, upon a determination that a
392 person claimant is entitled to compensation, immediately take
393 all action necessary to administratively expunge the person's
394 claimant's criminal record arising from his or her wrongful
395 arrest, wrongful conviction, and wrongful incarceration. All
396 fees for this process shall be waived.

397
398 The total compensation awarded under paragraphs (a), (c), and
399 (d) may not exceed \$2 million. Except as provided in paragraph
400 (e), no further award for attorney's fees, lobbying fees, costs,
401 or other similar expenses shall be made by the state.

402 (2) In calculating monetary compensation under paragraph
403 (1) (a), a wrongfully incarcerated person who is placed on parole
404 or community supervision while serving the sentence resulting
405 from the wrongful conviction and who commits anything less than
406 a felony law violation that results in revocation of the parole

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407 or community supervision is eligible for compensation for the
408 total number of years incarcerated. A wrongfully incarcerated
409 person who commits a felony law violation that results in
410 revocation of the parole or community supervision is ineligible
411 for any compensation under subsection (1).

412 (3) Within 15 calendar days after issuing notice to the
413 wrongfully incarcerated person ~~claimant~~ that his or her claim
414 satisfies all of the requirements under this act, the department
415 shall notify the Chief Financial Officer to draw a warrant from
416 the General Revenue Fund or another source designated by the
417 Legislature in law for the purchase of an annuity for the
418 wrongfully incarcerated person ~~claimant~~ based on the total
419 amount determined by the department under this act.

420 (4) The Chief Financial Officer shall issue payment in the
421 amount determined by the department to an insurance company or
422 other financial institution admitted and authorized to issue
423 purchase an annuity contracts in this state to purchase an
424 annuity, selected by the wrongfully incarcerated person, on
425 ~~behalf of the claimant~~ for a term of not less than 10 years. The
426 Chief Financial Officer shall execute all necessary agreements
427 to implement this act and maximize the benefit to the wrongfully
428 incarcerated person. The terms of the annuity shall:

429 (a) Provide that the annuity may not be sold, discounted,
430 or used as security for a loan or mortgage by the wrongfully
431 incarcerated person ~~applicant~~.

432 (b) Contain beneficiary provisions for the continued
433 disbursement of the annuity in the event of the death of the
434 wrongfully incarcerated person ~~applicant~~.

435 (5) Before the department approves the application under s.

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436 961.05 ~~Chief Financial Officer draws the warrant for the~~
437 ~~purchase of the annuity, the~~ wrongfully incarcerated person
438 ~~claimant~~ must sign a release and waiver on behalf of the
439 wrongfully incarcerated person ~~claimant~~ and his or her heirs,
440 successors, and assigns, forever releasing the state or any
441 agency, instrumentality, or any political subdivision thereof,
442 or any other entity subject to ~~the provisions of~~ s. 768.28, from
443 all present or future claims that the wrongfully incarcerated
444 person ~~claimant~~ or his or her heirs, successors, or assigns may
445 have against such entities arising out of the facts in
446 connection with the wrongful conviction for which compensation
447 is being sought under the act. ~~The release and waiver must be~~
448 ~~provided to the department prior to the issuance of the warrant~~
449 ~~by the Chief Financial Officer.~~

450 (6) (a) A wrongfully incarcerated person may not submit an
451 application for compensation under this act if the person has a
452 civil action lawsuit pending against the state or any agency,
453 instrumentality, or any political subdivision thereof, or any
454 other entity subject to ~~the provisions of~~ s. 768.28, in state or
455 federal court requesting compensation arising out of ~~the facts~~
456 ~~in connection with~~ the wrongfully incarcerated person's
457 ~~claimant's~~ conviction and incarceration.

458 (b) A wrongfully incarcerated person may not submit an
459 application for compensation under this act if the person has
460 received a prior judgment in his or her favor in a civil action
461 against the state or any agency, instrumentality, or any
462 political subdivision thereof, or against any other entity
463 subject to s. 768.28, in state or federal court arising out of
464 the wrongfully incarcerated person's conviction and

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465 incarceration.

466 ~~(c)-(b)~~ A wrongfully incarcerated person may not submit an
467 application for compensation under this act if the person is the
468 subject of a claim bill pending for claims arising out of ~~the~~
469 ~~facts in connection with~~ the wrongfully incarcerated person's
470 ~~claimant's~~ conviction and incarceration.

471 ~~(d)-(e)~~ Once an application is filed under this act, a
472 wrongfully incarcerated person may not pursue recovery under a
473 claim bill until the final disposition of the application.

474 ~~(e)-(d)~~ Any amount awarded under this act is intended to
475 provide the sole compensation for any and all present and future
476 claims arising out of ~~the facts in connection with~~ the
477 wrongfully incarcerated person's ~~claimant's~~ conviction and
478 incarceration. Upon notification by the department that an
479 application meets the requirements of this act, a wrongfully
480 incarcerated person may not recover under a claim bill.

481 ~~(f)-(e)~~ Any compensation awarded under a claim bill shall be
482 the sole redress for claims arising out of ~~the facts in~~
483 ~~connection with~~ the wrongfully incarcerated person's ~~claimant's~~
484 conviction and incarceration and, upon any award of compensation
485 to a wrongfully incarcerated person under a claim bill, the
486 person may not receive compensation under this act.

487 (7) Any payment made under this act does not constitute a
488 waiver of any defense of sovereign immunity or an increase in
489 the limits of liability on behalf of the state or any person
490 subject to ~~the provisions of~~ s. 768.28 or other law.

491 Section 5. This act shall take effect July 1, 2010.