

By 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," to conform;
7 amending s. 961.03, F.S.; requiring that a petition
8 for compensation describe the existence of clear and
9 convincing evidence of actual innocence; requiring the
10 petitioner to submit fingerprints for criminal history
11 records 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; requiring that the Department of Law
19 Enforcement pay for the criminal history records
20 checks; amending s. 961.05, F.S.; eliminating the
21 requirement that a wrongfully incarcerated person
22 provide certain court records and documentation from
23 the Department of Corrections along with an
24 application for compensation; requiring the Department
25 of Legal Affairs to request certain records from the
26 clerk of the court and the Department of Corrections;
27 amending s. 961.06, F.S.; providing for compensation
28 of reasonable attorney's fees and expenses, up to
29 \$50,000, incurred for pursuing compensation for

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

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

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

54 961.02 Definitions.—As used in ss. 961.01-961.07, the term:

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

57 (2) "Actual innocence" means that a person did not commit
58 the act or the offense that served as the basis for the

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59 conviction and incarceration for which the person seeks
60 compensation, and that the person did not aid, abet, or act as
61 an accomplice to a person who committed the act or offense.

62 (3)~~(2)~~ "Department" means the Department of Legal Affairs.

63 (4)~~(3)~~ "Division" means the Division of Administrative
64 Hearings.

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

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

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

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

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

87 (1) (a) In order to meet the definition of a "wrongfully

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

96 1. State that clear and convincing ~~verifiable and~~
97 ~~substantial~~ evidence of actual innocence exists and state with
98 particularity the nature and significance of the ~~verifiable and~~
99 ~~substantial~~ evidence of actual 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 checks 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 borne 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 must ~~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 by
189 electronic means through the division's website to the division
190 for findings of fact and a recommended determination of whether
191 the petitioner has proven actual innocence ~~established that he~~
192 ~~or she is a wrongfully incarcerated person who is eligible for~~
193 ~~compensation~~ under this act.

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

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

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204 petition to the division.

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

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

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

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

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

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

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233 3. The petitioner is a wrongfully incarcerated person who
234 is eligible for compensation; or

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

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

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

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

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

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

261 (1) A wrongfully incarcerated person who is eligible for

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

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

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

277 (4) The application must include:

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

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

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

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

290 (b) ~~(e)~~ Positive proof of identification, including ~~two full~~

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291 ~~sets of fingerprints administered by a law enforcement agency~~
292 ~~and~~ a current form of photo identification, demonstrating that
293 the person seeking compensation is the same individual who was
294 wrongfully incarcerated;

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

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

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

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

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

315 (b) Request that the Department of Corrections provide
316 documentation demonstrating the length of the sentence served,
317 including the dates of the wrongfully incarcerated person's
318 admission into and release from the custody of the Department of
319 Corrections. The Department of Corrections shall provide this

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320 documentation at no charge.

321 ~~(c)(6) Upon receipt of an application, the department shall~~
322 Examine the application and notify the wrongfully incarcerated
323 person claimant within 30 calendar days of any errors or
324 omissions, and request any additional information relevant to
325 the review of the application. The wrongfully incarcerated
326 person claimant shall have 15 days after proper notification of
327 any existing errors or omissions to supplement the application.
328 The department may not deny an application for failure of the
329 wrongfully incarcerated person claimant to correct an error or
330 omission or supply additional information unless the department
331 timely notified the person claimant of such errors or omissions
332 or requested the additional information within the 30-day period
333 specified in this paragraph subsection. The department shall
334 process and review each completed application within 90 calendar
335 days. Once the department determines whether a claim for
336 compensation meets the requirements of this act, the department
337 shall notify the wrongfully incarcerated person claimant within
338 5 business days of that determination.

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

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

346 961.06 Compensation for wrongful incarceration.—

347 (1) Except as otherwise provided in this act and subject to
348 the limitations and procedures prescribed in this section, a

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349 person who is found to be entitled to compensation under ~~the~~
350 ~~provisions of~~ this act is entitled to:

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

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

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

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

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

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

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

404 (2) In calculating monetary compensation under paragraph
405 (1) (a), a wrongfully incarcerated person who is placed on parole
406 or community supervision while serving the sentence resulting

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

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

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

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

434 (b) Contain beneficiary provisions for the continued
435 disbursement of the annuity in the event of the death of the

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436 wrongfully incarcerated person applicant.

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

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

460 (b) A wrongfully incarcerated person may not submit an
461 application for compensation under this act if the person has
462 received a prior judgment in his or her favor in a civil action
463 against the state or any agency, instrumentality, or any
464 political subdivision thereof, or against any other entity

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465 subject to s. 768.28, in state or federal court arising out of
466 the wrongfully incarcerated person's conviction and
467 incarceration.

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

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

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

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

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

493 Section 5. This act shall take effect July 1, 2012.