1   A bill to be entitled

2   An act relating to victims of wrongful incarceration;

3   creating s. 961.055, F.S.; providing that a wrongfully

4   incarcerated person who was convicted and sentenced to

5   death on or before December 31, 1979, is exempt from

6   certain application procedures for compensation if a

7   special prosecutor issues a nolle prosequi after

8   reviewing the defendant's conviction; creating s.

9   961.056, F.S.; providing alternative procedures for

10   applying for compensation; requiring the claimant to

11   file an application with the Department of Legal

12   Affairs within a specified time; requiring the

13   application to include certain information and

14   documents; providing that the claimant is entitled to

15   compensation if all requirements are met; providing

16   that the section is repealed on a specified date;

17   providing an effective date.

18

19   Be It Enacted by the Legislature of the State of Florida:

20

21   Section 1. Section 961.055, Florida Statutes, is created

22   to read:

23   961.055 Application for compensation for a wrongfully

24   incarcerated person; exemption from application by nolle

25   prosequi.—

26   (1) A person alleged to be a wrongfully incarcerated

27 person who was convicted and sentenced to death on or before

28 December 31, 1979, is exempt from the application provisions of

29 ss. 961.03, 961.04, and 961.05 in the determination of wrongful

30 incarceration and eligibility to receive compensation pursuant

31 to s. 961.06 if:

32   (a) The Governor issues an executive order appointing a

33 special prosecutor to review the defendant's conviction; and

34   (b) The special prosecutor thereafter enters a nolle

35 prosequi for the charges for which the defendant was convicted

36 and sentenced to death.

37   (2) The nolle prosequi constitutes conclusive proof that

38 the defendant is innocent of the offenses charged and is

39 eligible to receive compensation under this chapter.

40   (3) This section is repealed July 1, 2018.

41   Section 2. Section 961.056, Florida Statutes, is created

42 to read:

43   961.056 Alternative application for compensation for a

44 wrongfully incarcerated person.—

45   (1) A person who has been determined to be a wrongfully

46 incarcerated person pursuant to s. 961.055 is eligible to apply

47 to the department to receive compensation for such wrongful

48 incarceration.

49   (a) Only the wrongfully incarcerated person may apply for

50 compensation. The estate of, or personal representative for, a

51 decedent may not apply on behalf of the decedent for

52 compensation for wrongful incarceration.

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53   (b) In order to receive compensation, the wrongfully

54 incarcerated person shall, by July 1, 2016, submit to the

55 Department of Legal Affairs an application for compensation

56 irrespective of whether the person has previously sought

57 compensation under this chapter. The application must include:

58   1. A certified copy of the nolle prosequi or nolle

59 prosequi memorandum;

60   2. Certified copies of the original judgment and sentence;

61   3. Documentation demonstrating the length of the sentence

62 served, including documentation from the Department of

63 Corrections regarding the person's admission into and release

64 from the custody of the Department of Corrections;

65   4. Positive proof of identification, as evidenced by two

66 full sets of fingerprints prepared by a law enforcement agency

67 of this state and a current form of photo identification;

68   5. Supporting documentation of any fine, penalty, or court

69 costs imposed on and paid by the wrongfully incarcerated person

70 as described in s. 961.06(1);

71   6. Supporting documentation of any reasonable attorney

72 fees and expenses as described in s. 961.06(1); and

73   7. Any other documentation, evidence, or information

74 required by rules adopted by the department.

75   (2) The law enforcement agency that prepared the

76 applicant's set of fingerprints shall forward both full sets to

77 the Department of Law Enforcement. The Department of Law

78 Enforcement shall retain one set for statewide criminal records

79 checks and forward the second set of fingerprints to the Federal

80 Bureau of Investigation for national criminal records checks.

81 The results of the state and national records checks shall be

82 submitted to the department.

83   (3) Upon receipt of an application, the department shall

84 examine the application and, within 30 days after receipt of the

85 application, shall notify the claimant of any error or omission

86 and request any additional information relevant to the review of

87 the application.

88   (a) The claimant has 15 days after proper notification by

89 the department to correct any identified error or omission in

90 the application and to supply any additional information

91 relevant to the application.

92   (b) The department may not deny an application for failure

93 of the claimant to correct an error or omission or to supply

94 additional information unless the department has notified the

95 claimant of such error or omission and requested the additional

96 information within the 30-day period specified in this

97 subsection.

98   (c) The department shall process and review each complete

99 application within 90 calendar days.

100   (d) Once the department determines whether a claim for

101 compensation meets the requirements of this chapter, the

102 department shall notify the claimant within 5 business days

103 after that determination.

104   (5) If the department determines that a claimant meets the

105 requirements of this chapter, the wrongfully incarcerated person
106 is entitled to compensation under s. 961.06.
107   (6) This section is repealed July 1, 2018.
108   Section 3. This act shall take effect July 1, 2014.

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