

By Senator Thompson

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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16 that the section is repealed on a specified date;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:

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21 Section 1. Section 961.055, Florida Statutes, is created to
22 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 person
27 who was convicted and sentenced to death on or before December
28 31, 1979, is exempt from the application provisions of ss.
29 961.03, 961.04, and 961.05 in the determination of wrongful

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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40 (3) This section is repealed July 1, 2018.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 to
42 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.

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 prosequi

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59 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 fees
72 and expenses as described in s. 961.06(1); and73 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.

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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.