

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** CS/SB 382

**INTRODUCER:** Criminal Justice Committee and Senator Bradley

**SUBJECT:** Compensation for Wrongfully Incarcerated Persons

**DATE:** March 22, 2023      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	<b>Fav/CS</b>
2.	Atchley	Harkness	ACJ	<b>Favorable</b>
3.	Cellon	Yeatman	FP	<b>Pre-Meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 382 amends the Victims of Wrongful Incarceration Compensation Act by amending s. 961.02, F.S., to remove an unnecessary definition.

The bill amends s. 961.03, F.S., to:

- Prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.
- Retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2025, under specified circumstances.
- Provide that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

Section 961.04, F.S., is amended to remove the bar to compensation for a petitioner who has been convicted of a violent felony or multiple nonviolent felonies before or during his or her wrongful conviction and incarceration. A person continues to be ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for which he or she was not wrongfully incarcerated.

Section 961.06, F.S., is amended to prohibit the Chief Financial Officer (CFO) from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated under specified circumstances.

Section 961.07, F.S., is amended to provide for funds to be appropriated.

While there are existing limitations on compensation (\$50,000 per year of wrongful incarceration up to a limit of \$2 million) for a qualified claimant, it is not possible to quantify the additional number of people who may be compensable. Therefore, any fiscal impact from the bill is unquantifiable.

The bill becomes effective July 1, 2023.

## II. Present Situation:

### Victims of Wrongful Incarceration Act

Since 2000, 21 people in Florida have been exonerated or released from incarceration as a result of post-conviction DNA testing, false or misleading forensic evidence, mistaken identity, perjury, or false accusations.<sup>1</sup> In 2008, the Legislature created The Victims of Wrongful Incarceration Compensation Act (Act).<sup>2</sup> The Act provides a process by which a person whose conviction and sentence is vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a “wrongfully incarcerated person.”<sup>3</sup>

A “wrongfully incarcerated person” is a person whose felony conviction and sentence has been vacated by a court and for whom the original sentencing court has issued an order finding that the person neither committed the act nor the offense that served as the basis for the conviction and incarceration and that the person did not aid, abet, or act as an accomplice or accessory to the offense.<sup>4</sup>

To date, five people have qualified for and been awarded a total of \$6,276,900 compensation under the Act.<sup>5</sup>

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<sup>1</sup> Frank Lee Smith, Jerry Townsend, Rudolph Holton, Wilton Dedge, Luis Diaz, Orlando Boquete, Alan Crotzer, Larry Bostic, Cody Davis, Chad Heins, William Dillon, James Bain, Anthony Caravella, Derrick Williams, Cheydrick Britt, Narcisse Antoine, Clemente Aguirre-Jarquín, Dean McKee, Ronald Stewart, and Robert Duboise have been released from prison or exonerated in Florida. The National Registry of Exonerations, <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA> (last visited March 1, 2023).

<sup>2</sup> Chapter 2008–39, L.O.F.

<sup>3</sup> To be eligible for compensation, a person must meet the definition of a “wrongfully incarcerated person” and not be otherwise disqualified from seeking compensation under the Act because of disqualifying criminal history. Section 961.02(4), F.S.

<sup>4</sup> Section 961.02(7), F.S.

<sup>5</sup> E-mail from the Department of Legal Affairs dated February 13, 2023, on file with the Senate Criminal Justice Committee.

### *Petition Process*

To receive compensation under the Act, an exonerated person must file a petition with the original sentencing court seeking status as a “wrongfully incarcerated person.” Section 961.03(1)(a), F.S., requires a petitioner to state:

- That verifiable and substantial evidence of actual innocence exists;
- With particularity, the nature and significance of the evidence of actual innocence; and
- That the person is not disqualified under s. 961.04, F.S., from seeking compensation because he or she has specified criminal history.

A person seeking compensation under the Act must file a petition with the court within 90 days after the order vacating a conviction and sentence becomes final, if the person’s conviction and sentence is vacated on or after July 1, 2008.<sup>6</sup>

Although a petitioner must submit proof of actual innocence in his or her petition, in some cases, after a conviction is overturned, the state may choose to retry the person. In these cases, the 90 day filing deadline may require a petitioner to file a petition with proof of actual innocence while he or she is still in custody or facing retrial. According to the Innocence Project, six exonerees in Florida are barred from receiving compensation as a result of missing the 90 day filing deadline.<sup>7</sup>

Once the petition is filed, the prosecuting authority must respond to the petition within 30 days by:

- Certifying to the court that, based upon the petition and verifiable and substantial evidence of the petitioner’s actual innocence, no further criminal proceedings can or will be initiated against the petitioner, that no questions of fact remain as to the petitioner’s wrongful incarceration, and that the petitioner is not ineligible from seeking compensation under s. 961.04, F.S.; or
- Contesting the evidence of actual innocence, the facts related to the petitioner’s alleged wrongful incarceration, or whether the petitioner is ineligible from seeking compensation under s. 961.04, F.S.<sup>8</sup>

If the prosecuting authority certifies the petitioner’s innocence and that no further charges can or will be filed and that he or she is otherwise eligible for compensation, the original sentencing court<sup>9</sup> must certify to the Department of Legal Affairs (DLA) that the petitioner qualifies as a wrongfully incarcerated person and is eligible for compensation under s. 961.04, F.S.<sup>10</sup>

If the prosecuting authority contests the petitioner’s actual innocence or eligibility for compensation based on his or her prior criminal history:

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<sup>6</sup> Or by July 1, 2010, if the person’s conviction and sentence was vacated by an order that became final prior to July 1, 2008. Section 961.03(1)(b), F.S.

<sup>7</sup> Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School, (2022) <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited March 1, 2023).

<sup>8</sup> Section 961.03(2), F.S.

<sup>9</sup> Based upon the evidence of actual innocence, the prosecuting authority’s certification, and upon the court’s finding that the petitioner has presented clear and convincing evidence that the petitioner committed neither the act nor the offense that served as the basis for the conviction and incarceration, and that the petitioner did not aid, abet, or act as an accomplice to a person who committed the act or offense. Section 961.03(3), F.S.

<sup>10</sup> Section 961.03(3), F.S.

- The original sentencing court must use the pleadings and supporting documents to determine whether, by a preponderance of the evidence, the petitioner is ineligible for compensation under s. 961.04, F.S., regardless of his or her claim of wrongful incarceration.
  - If the court finds that the petitioner is ineligible under s. 961.04, F.S., it must dismiss the petition.<sup>11</sup>
  - And the court determines that the petitioner is eligible under s. 961.04, F.S., but the prosecuting authority also contests the nature, significance or effect of the evidence of the petitioner’s actual innocence, or the facts related to the petitioner’s alleged wrongful incarceration, the court is required to set forth its findings on eligibility and transfer the petition to the Division of Administrative Hearings (DOAH).<sup>12</sup>

When a petition is transferred to the DOAH, a hearing before an administrative law judge (ALJ) must take place within 120 days after the transfer.<sup>13</sup> At the hearing, the petitioner must establish, by clear and convincing evidence, any questions of fact, the nature, significance or effect of the evidence of actual innocence, and his or her eligibility for compensation under the Act.<sup>14</sup> The prosecuting authority must appear at the hearing to contest any evidence of actual innocence presented by the petitioner.<sup>15</sup> When the hearing concludes, the ALJ is required to file an order with the original sentencing court within 45 days setting forth his or her findings and recommendation as to whether the petitioner established by clear and convincing evidence that he or she qualifies as a wrongfully incarcerated person.<sup>16</sup>

Once the ALJ issues his or her findings and recommendation, the original sentencing court must, within 60 days, issue its own order adopting or declining to adopt the ALJ’s findings and recommendation.<sup>17</sup> If the original sentencing court concludes that the petitioner qualifies as a wrongfully incarcerated person who is eligible for compensation under the Act, the court must issue an order certifying its findings to the DLA.<sup>18</sup>

### ***The “Clean Hands” Provision***

When the Act was passed in 2008,<sup>19</sup> a person was ineligible to receive compensation under s. 961.04, F.S., if he or she was previously convicted of any other felony. As such, s. 961.04, F.S., became commonly known as the “clean hands” requirement. The Act was amended in 2017,<sup>20</sup> to expand eligibility under the “clean hands” requirement, making a petitioner ineligible to receive compensation if he or she was:

- Convicted of any violent felony, or any crime committed in another jurisdiction the elements of which would constitute a violent felony in Florida, or a federal crime designated a violent

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<sup>11</sup> Section 961.03(4)(a), F.S.

<sup>12</sup> Section 961.03(4)(b), F.S.

<sup>13</sup> Section 961.03(6)(a), F.S.

<sup>14</sup> Section 961.03(5), F.S.

<sup>15</sup> Section 961.03(6)(b), F.S.

<sup>16</sup> Section 961.03(6)(c), F.S.

<sup>17</sup> Section 961.03(6)(d), F.S.

<sup>18</sup> The order must indicate that the ALJ’s findings are correct and the petitioner has met his or her burden of proof to establish status as a wrongfully convicted person or if the ALJ findings indicate that the petitioner has not met his or her burden of proof, that the court is declining to adopt the findings of the ALJ. Section 961.03(7), F.S.

<sup>19</sup> Chapter 2008-39, L.O.F.

<sup>20</sup> Chapter 2017-120, L.O.F.

felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration;

- Convicted of more than one nonviolent felony, or more than one crime committed in another jurisdiction the elements of which would constitute a felony in Florida, or more than one federal crime designated a felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration; or
- Serving a concurrent sentence for another felony for which he or she was not wrongfully convicted during the period of wrongful incarceration.<sup>21</sup>

Additionally, under s. 961.06(2), F.S., a wrongfully incarcerated person who is placed on parole or community supervision as a part of the sentence he or she is serving for his or her wrongful conviction and who commits:

- One violent felony or more than one nonviolent felony that results in revocation of the parole or community supervision is ineligible for any compensation under the Act.
- No more than one nonviolent felony which results in revocation of the parole or community supervision is eligible for compensation for the total number of years he or she was incarcerated.<sup>22</sup>

For the purpose of determining a person's eligibility, s. 961.02(6), F.S., defines a violent felony as any felony listed in:

- Section 755.084(1)(c)1., F.S., which includes: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; home invasion robbery; carjacking; or an offense committed in another jurisdiction which has substantially similar elements to a listed crime; or
- Section 948.06(8)(c), F.S., which includes: kidnapping or attempted kidnapping, false imprisonment of a child under 13, or luring or enticing a child; murder or attempted murder, attempted felony murder, or manslaughter; aggravated battery or attempted aggravated battery; sexual battery or attempted sexual battery; lewd or lascivious battery or attempted lewd or lascivious battery; lewd or lascivious molestation, lewd or lascivious conduct, lewd or lascivious exhibition, or lewd or lascivious exhibition on a computer; robbery or attempted robbery, carjacking or attempted carjacking, or home invasion robbery or attempted home invasion robbery; lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person; sexual performance by a child or attempted sexual performance by a child; computer pornography, transmission of child pornography, or selling or buying of minors; poisoning food or water; abuse of a dead human body; any burglary offense or attempted burglary offense that is a first or second degree felony; arson or attempted arson; aggravated assault; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; treason under s. 876.32, F.S.; or any offense committed in another jurisdiction which would be a listed offense if it were committed in Florida.<sup>23</sup>

<sup>21</sup> Section. 961.04, F.S.

<sup>22</sup> Section 961.06(2), F.S.

<sup>23</sup> Section 961.02(6), F.S.

Currently, the Federal government, District of Columbia, and 38 states have a process to compensate wrongfully incarcerated individuals.<sup>24</sup> Florida's wrongful incarceration compensation law is the only one in the country that makes a person ineligible for compensation if he or she was previously convicted of certain unrelated crimes.<sup>25</sup> At least 17 exonerates in Florida are currently ineligible to receive compensation under the Act because of the "clean hands" requirement.<sup>26</sup>

### *The Application Process*

After the original sentencing court enters an order finding that the claimant meets the definition of a wrongfully incarcerated person who is eligible for compensation, the claimant must submit an application to the DLA for compensation, if he or she is otherwise eligible to apply, within two years.<sup>27</sup> Section 961.06, F.S., prohibits a wrongfully incarcerated person from applying for compensation if he or she is the subject of a pending claim bill<sup>28</sup> which is based on his or her wrongful conviction and incarceration. Similarly, once a claimant files an application for compensation, he or she may not pursue recovery under a claim bill until the final disposition of his or her application,<sup>29</sup> and once the DLA notifies a claimant that his or her application meets the requirements of the Act, he or she is prohibited from seeking additional compensation under a claim bill.<sup>30, 31</sup>

Only the claimant, not the claimant's estate or its personal representative, may apply for compensation.<sup>32</sup> Section 961.05(3), F.S., requires, in part, that a claimant's application include:

- A certified copy of the order vacating the conviction and sentence;

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<sup>24</sup> Alaska, Arizona, Arkansas, Delaware, Georgia, Kentucky, New Mexico, North Dakota, Pennsylvania, South Carolina, South Dakota, and Wyoming do not have compensation laws. Innocence Project, *Compensating the Wrongly Convicted* <https://innocenceproject.org/compensating-wrongly-convicted/#:~:text=The%20federal%20government%2C%20the%20District,%2C%20South%20Dakota%2C%20and%20Wyoming.> (last visited Feb. 3, 2023).

<sup>25</sup> Kansas Legislative Research Department, *Compensation for Wrongful Conviction, Wrongful Incarceration, and Exoneration* (Dec. 27, 2017) <http://www.kslegresearch.org/KLRD-web/Publications/JudiciaryCorrectionsJuvJustice/WrongfulIncarcerationCompensationMemo.pdf> (last visited on Feb. 3, 2023).

<sup>26</sup> According to the Innocence Project and independent research conducted at George Washington University Law School. Jeffrey Gutman, *supra* note 6.

<sup>27</sup> Section 961.05(1) and (2), F.S.

<sup>28</sup> A claim bill is not an action at law, but rather is a legislative measure that directs the CFO, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation. The amount awarded under a claim bill is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable. *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

<sup>29</sup> Section 961.06(6)(c), F.S.

<sup>30</sup> Any amount awarded under the Act is intended to provide the sole compensation for any and all present and future claims arising out of the facts in connection with the claimant's wrongful conviction and incarceration. Section 961.06(6)(d), F.S.

<sup>31</sup> Since 2008, numerous claim bills have been filed on behalf of wrongfully incarcerated persons who were ineligible for compensation under the Act because of the "clean hands" requirement. At least three such persons have received compensation for wrongful incarceration through the claim bill process: Alan Crotzer (2008), William Dillon (2017), and Clifford Williams (2020).

<sup>32</sup> Section 961.05(2), F.S.

- A certified copy of the original sentencing court's order finding the claimant to be a wrongfully incarcerated person who is eligible for compensation under the Act;
- Certified copies of the original judgment and sentence;
- Documentation demonstrating the length of the sentence served, including documentation from the Department of Corrections (DOC) regarding the person's admission into and release from the custody of the DOC;
- Proof of identification demonstrating that the person seeking compensation is the same individual who was wrongfully incarcerated;
- All supporting documentation of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person; and
- All supporting documentation of any reasonable attorney's fees and expenses.

The DLA is required to review the application, and within 30 days, notify the claimant of any errors or omissions and request any additional information relevant to the review of the application. The claimant has 15 days after notification of existing errors or omissions to supplement the application. The DLA must process and review each completed application within 90 days.<sup>33</sup>

Before the DLA approves an application, the wrongfully incarcerated person must sign a release and waiver on behalf of himself or herself and his or her heirs, successors, and assigns, forever releasing the state or any agency, or any political subdivision thereof, from all present or future claims that may arise out of the facts in connection with the wrongful conviction for which compensation is being sought.<sup>34</sup> Once DLA determines whether a claim meets the Act's requirements, it must notify the claimant within five business days of its determination.<sup>35</sup> If DLA determines that a claimant meets the Act's requirements, the wrongfully incarcerated person becomes entitled to compensation.<sup>36</sup>

### ***Compensation***

Under s. 961.06, F.S., a wrongfully incarcerated person is entitled to:

- Monetary compensation, at a rate of \$50,000 for each year of wrongful incarceration;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals regarding the wrongful conviction; and
- Immediate administrative expunction of the person's criminal record resulting from the wrongful arrest, conviction, and incarceration.<sup>37</sup>

Within 15 calendar days after the DLA issues notice to the claimant that his or her claim satisfies all of the requirements under the Act, the DLA must notify the CFO to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of

<sup>33</sup> Section 961.05(5), F.S.

<sup>34</sup> Section 961.06(5), F.S.

<sup>35</sup> Section 961.05(5), F.S.

<sup>36</sup> Section 961.05(6), F.S.

<sup>37</sup> Section 961.06(1), F.S.

an annuity for the claimant based on the total amount determined by the DLA.<sup>38</sup> Section 961.07, F.S., currently provides for a continuing appropriation from the General Revenue Fund to the CFO for payments under the Act.<sup>39</sup>

The total compensation awarded to a claimant may not exceed \$2 million.<sup>40</sup> The CFO is required to issue payment in the amount determined by the DLA to an insurance company or other financial institution admitted and authorized to issue annuity contracts to purchase an annuity or annuities, selected by the claimant, for a term not less than 10 years to distribute such compensation.<sup>41</sup>

### III. Effect of Proposed Changes:

The bill amends s. 961.02, F.S., to remove a definition that has become unnecessary due to other parts of the bill.

The bill amends s. 961.03, F.S., to prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.

The bill also amends s. 961.03, F.S., to retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2023; and
- Person previously filed a petition that was dismissed or did not file a petition, because the:
  - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
  - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement.

Additionally, the bill provides that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

The bill amends s. 961.04, F.S., to remove the bar to compensation for a petitioner who has been convicted of a violent felony or multiple nonviolent felonies before or during his or her wrongful conviction and incarceration, thereby making such a person eligible to seek compensation under the Act. A person continues to be ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for a felony offense for which he or she was not wrongfully incarcerated.

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<sup>38</sup> Section 961.06(3), F.S.

<sup>39</sup> Section 961.06(1), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 961.06(4), F.S.



The bill amends s. 961.06, F.S., to remove the provision stating that a person who is on parole or community supervision from the wrongful incarceration and commits a violent felony or more than one felony that results in the revocation of parole or community supervision is ineligible for any compensation.

The bill amends s. 961.06, F.S., to prohibit the CFO from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated:

- For a felony conviction other than the crime for which the compensation is owed; or
- Due to the revocation of parole or probation for a felony conviction other than a crime for which the compensation is owed.

The CFO must commence with the drawing of a warrant after such term of imprisonment has concluded.

The bill also amends s. 961.07, F.S., to provide that beginning in fiscal year 2023-2024, and continuing each fiscal year thereafter, a sum sufficient to pay the approved payments under s. 961.03(1)(b), F.S.,<sup>42</sup> is appropriated from the General Revenue Fund to the Chief Financial Officer, which sum is further appropriated for expenditure pursuant to the Victims of Wrongful Incarceration Act. Petitions filed pursuant to s. 961.03(1)(b)2., F.S.,<sup>43</sup> are subject to specific appropriation.

The bill becomes effective July 1, 2023.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

<sup>42</sup> Subparagraph 961.03(1)(b)1., F.S., extends the time for filing a petition to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.

<sup>43</sup> Subparagraph s. 961.03(1)(b)2., F.S., extends the time for filing a petition to July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2023; *and*
- Person previously filed a petition that was dismissed or did not file a petition, because the:
  - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
  - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement (emphasis added).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Section 961.07, F.S., currently provides for the continuing appropriation from the General Revenue Fund to the CFO for payments under the Act. The limitation on a wrongful incarceration claim is \$50,000 per year of wrongful incarceration, up to a limit of \$2 million. The bill extends the timelines and expands the parameters for filing wrongful incarceration claims, which may increase the number of persons who qualify for wrongful compensation under the Act. It is not possible to quantify the additional number of people who may become compensable. Therefore, the fiscal impact of the bill is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 961.02, 961.03, 961.04, 961.06, and 961.07.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 6, 2023:**

The committee substitute:

- Amends s. 961.02, F.S., to remove a definition that has become unnecessary due to other parts of the bill.
- Restores current law in s. 961.04, F.S., providing that a person is ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for a felony offense for which he or she was lawfully incarcerated.
- Removes the provisions in s. 961.06, F.S., relating to an “off-set provision” if the defendant receives a civil award, a settlement, and funds from a source other than the Act.
- Restores current law in s. 961.06, F.S., relating to the wrongfully incarcerated person signing a release and waiver releasing the state and other entities from all present and future claims.
- Restores current law in s. 961.06, F.S., prohibiting a wrongfully incarcerated person from filing an application under the Act if he or she has a pending lawsuit against the state and other entities in state court.
- Restores current law in s. 961.06, F.S., regarding compensation awarded to the wrongfully incarcerated person from a claim bill.

**B. Amendments:**

None.