

By Senator Bradley

6-00281-23

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1                   A bill to be entitled  
2       An act relating to compensation for wrongfully  
3       incarcerated persons; amending s. 961.03, F.S.;  
4       revising requirements for when a petition seeking  
5       compensation for a wrongful incarceration must be  
6       filed; providing that a deceased person's heirs,  
7       successors, or assigns do not have standing to file  
8       such a petition; amending s. 961.04, F.S.; revising  
9       compensation eligibility requirements for a wrongful  
10      incarceration; amending s. 961.06, F.S.; revising  
11      requirements for awarding compensation for a wrongful  
12      incarceration; specifying circumstances under which  
13      certain paid sums must be deducted from the total  
14      monetary compensation a claimant for wrongful  
15      incarceration is entitled to or under which the  
16      claimant must reimburse the state; providing  
17      requirements for the claimant and the Department of  
18      Legal Affairs due to reimbursements; providing  
19      requirements upon the Chief Financial Officer;  
20      amending s. 961.07, F.S.; revising requirements for  
21      continuing appropriations; specifying that certain  
22      payments are subject to specific appropriation;  
23      providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:  
26

27       Section 1. Paragraph (b) of subsection (1) of section  
28       961.03, Florida Statutes, is amended, and paragraph (c) is added  
29       to that subsection, to read:

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30 961.03 Determination of status as a wrongfully incarcerated  
31 person; determination of eligibility for compensation.—

32 (1)

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

34 1. Within 2 years ~~90 days~~ after the order vacating a  
35 conviction and sentence becomes final and the criminal charges  
36 against the person are dismissed or the person is retried and  
37 acquitted if the person's conviction and sentence is vacated on  
38 or after July 1, 2023 ~~2008~~.

39 2. By July 1, 2025 ~~2010~~, if the person's conviction and  
40 sentence was vacated and the criminal charges against the person  
41 were dismissed or the person was retried and acquitted on or  
42 after January 1, 2006, but before July 1, 2023, and he or she  
43 previously filed a petition under this section that was  
44 dismissed or he or she did not file a petition under this  
45 section because:

46 a. The date on which the criminal charges against the  
47 person were dismissed or the date on which the person was  
48 acquitted upon retrial occurred more than 90 days after the date  
49 on which the final order vacating the conviction and sentence;  
50 or

51 b. The person was convicted of an unrelated felony before  
52 or during his or her wrongful conviction and incarceration and  
53 was ineligible for compensation under s. 961.04 as it existed  
54 before July 1, 2023.

55 (c) A deceased person's heirs, successors, or assigns do  
56 not have standing to file a petition on the deceased person's  
57 behalf under this section ~~by an order that became final prior to~~  
58 ~~July 1, 2008.~~

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59 Section 2. Section 961.04, Florida Statutes, is amended to  
60 read:

61 961.04 Eligibility for compensation for wrongful  
62 incarceration.—A wrongfully incarcerated person is not eligible  
63 for compensation under the act for any period of incarceration  
64 during which the person was concurrently serving a sentence for  
65 a conviction of another crime for which such person was lawfully  
66 incarcerated if:

67 ~~(1) Before the person's wrongful conviction and~~  
68 ~~incarceration, the person was convicted of, or pled guilty or~~  
69 ~~nolo contendere to, regardless of adjudication, any violent~~  
70 ~~felony, or a crime committed in another jurisdiction the~~  
71 ~~elements of which would constitute a violent felony in this~~  
72 ~~state, or a crime committed against the United States which is~~  
73 ~~designated a violent felony, excluding any delinquency~~  
74 ~~disposition;~~

75 ~~(2) Before the person's wrongful conviction and~~  
76 ~~incarceration, the person was convicted of, or pled guilty or~~  
77 ~~nolo contendere to, regardless of adjudication, more than one~~  
78 ~~felony that is not a violent felony, or more than one crime~~  
79 ~~committed in another jurisdiction, the elements of which would~~  
80 ~~constitute a felony in this state, or more than one crime~~  
81 ~~committed against the United States which is designated a~~  
82 ~~felony, excluding any delinquency disposition;~~

83 ~~(3) During the person's wrongful incarceration, the person~~  
84 ~~was convicted of, or pled guilty or nolo contendere to,~~  
85 ~~regardless of adjudication, any violent felony;~~

86 ~~(4) During the person's wrongful incarceration, the person~~  
87 ~~was convicted of, or pled guilty or nolo contendere to,~~

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88 ~~regardless of adjudication, more than one felony that is not a~~  
89 ~~violent felony; or~~

90 ~~(5) During the person's wrongful incarceration, the person~~  
91 ~~was also serving a concurrent sentence for another felony for~~  
92 ~~which the person was not wrongfully convicted.~~

93 Section 3. Section 961.06, Florida Statutes, is amended to  
94 read:

95 961.06 Compensation for wrongful incarceration.—

96 (1) Except as otherwise provided in this act and subject to  
97 the limitations and procedures prescribed in this section, a  
98 person who is found to be entitled to compensation under ~~the~~  
99 ~~provisions of~~ this act is entitled to all of the following:

100 (a) Monetary compensation for wrongful incarceration, which  
101 shall be calculated at a rate of \$50,000 for each year of  
102 wrongful incarceration, prorated as necessary to account for a  
103 portion of a year. For persons found to be wrongfully  
104 incarcerated after December 31, 2005 ~~2008~~, the Chief Financial  
105 Officer may adjust the annual rate of compensation for inflation  
106 using the change in the December-to-December "Consumer Price  
107 Index for All Urban Consumers" of the Bureau of Labor Statistics  
108 of the Department of Labor. ~~†~~

109 (b) A waiver of tuition and fees for up to 120 hours of  
110 instruction at any career center established under s. 1001.44,  
111 any Florida College System institution as defined in s.  
112 1000.21(3), or any state university as defined in s. 1000.21(6) ~~†~~  
113 if the wrongfully incarcerated person meets and maintains the  
114 regular admission requirements of such career center, Florida  
115 College System institution, or state university; remains  
116 registered at such educational institution; and makes

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117 satisfactory academic progress as defined by the educational  
118 institution in which the claimant is enrolled.†

119 (c) The amount of any fine, penalty, or court costs imposed  
120 and paid by the wrongfully incarcerated person.†

121 (d) The amount of any reasonable attorney ~~attorney's~~ fees  
122 and expenses incurred and paid by the wrongfully incarcerated  
123 person in connection with all criminal proceedings and appeals  
124 regarding the wrongful conviction, to be calculated by the  
125 department based upon the supporting documentation submitted as  
126 specified in s. 961.05.† ~~and~~

127 (e) Notwithstanding any provision to the contrary in s.  
128 943.0583 or s. 943.0585, immediate administrative expunction of  
129 the person's criminal record resulting from his or her wrongful  
130 arrest, wrongful conviction, and wrongful incarceration. The  
131 Department of Legal Affairs and the Department of Law  
132 Enforcement shall, upon a determination that a claimant is  
133 entitled to compensation, immediately take all action necessary  
134 to administratively expunge the claimant's criminal record  
135 arising from his or her wrongful arrest, wrongful conviction,  
136 and wrongful incarceration. All fees for this process shall be  
137 waived.

138

139 The total compensation awarded under paragraphs (a), (c), and  
140 (d) may not exceed \$2 million. No further award for attorney  
141 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses  
142 shall be made by the state.

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

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146 ~~from the wrongful conviction and who commits no more than one~~  
147 ~~felony that is not a violent felony which results in revocation~~  
148 ~~of the parole or community supervision is eligible for~~  
149 ~~compensation for the total number of years incarcerated. A~~  
150 ~~wrongfully incarcerated person who commits one violent felony or~~  
151 ~~more than one felony that is not a violent felony that results~~  
152 ~~in revocation of the parole or community supervision is~~  
153 ~~ineligible for any compensation under subsection (1).~~

154 (2)~~(3)~~ Except as provided in subsection (9), within 15  
155 calendar days after issuing notice to the claimant that his or  
156 her claim satisfies all of the requirements under this act, the  
157 department shall notify the Chief Financial Officer to draw a  
158 warrant from the General Revenue Fund or another source  
159 designated by the Legislature in law for the purchase of an  
160 annuity for the claimant based on the total amount determined by  
161 the department under this act.

162 (3)~~(4)~~ The Chief Financial Officer shall issue payment in  
163 the amount determined by the department to an insurance company  
164 or other financial institution admitted and authorized to issue  
165 annuity contracts in this state to purchase an annuity or  
166 annuities, selected by the wrongfully incarcerated person, for a  
167 term of not less than 10 years. The Chief Financial Officer is  
168 directed to execute all necessary agreements to implement this  
169 act and to maximize the benefit to the wrongfully incarcerated  
170 person. The terms of the annuity or annuities shall:

171 (a) Provide that the annuity or annuities may not be sold,  
172 discounted, or used as security for a loan or mortgage by the  
173 wrongfully incarcerated person.

174 (b) Contain beneficiary provisions for the continued

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175 disbursement of the annuity or annuities in the event of the  
176 death of the wrongfully incarcerated person.

177 (4)(5) If, when monetary compensation is determined under  
178 paragraph (1) (a), a court has previously entered a monetary  
179 judgment in favor of the claimant in a civil action related to  
180 the claimant's wrongful incarceration, or the claimant has  
181 entered into a settlement agreement with the state or any  
182 political subdivision thereof related to the claimant's wrongful  
183 incarceration, the amount of the damages in the civil action or  
184 settlement agreement, less any sums paid for attorney fees or  
185 costs incurred in litigating the civil action or obtaining the  
186 settlement agreement, shall be deducted from the total monetary  
187 compensation to which the claimant is entitled under this  
188 section ~~Before the department approves the application for~~  
189 ~~compensation, the wrongfully incarcerated person must sign a~~  
190 ~~release and waiver on behalf of the wrongfully incarcerated~~  
191 ~~person and his or her heirs, successors, and assigns, forever~~  
192 ~~releasing the state or any agency, instrumentality, or any~~  
193 ~~political subdivision thereof, or any other entity subject to s.~~  
194 ~~768.28, from all present or future claims that the wrongfully~~  
195 ~~incarcerated person or his or her heirs, successors, or assigns~~  
196 ~~may have against such entities arising out of the facts in~~  
197 ~~connection with the wrongful conviction for which compensation~~  
198 ~~is being sought under the act.~~

199 (5) (a) If subsection (4) does not apply and if, after  
200 monetary compensation is determined under paragraph (1) (a):

201 1. The court enters a monetary judgment in favor of the  
202 claimant in a civil action related to the claimant's wrongful  
203 incarceration; or

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204       2. The claimant enters into a settlement agreement with the  
205 state or any political subdivision thereof related to the  
206 claimant's wrongful incarceration,

207  
208 the claimant shall reimburse the state for the monetary  
209 compensation paid under paragraph (1) (a), less any sums paid for  
210 attorney fees or costs incurred in litigating the civil action  
211 or obtaining the settlement agreement.

212       (b) A reimbursement required under this subsection may not  
213 exceed the amount of the monetary award the claimant received  
214 for damages in a civil action or settlement agreement.

215       (c) In the order of judgment, the court shall award to the  
216 state any amount required to be deducted under this subsection.

217       (6) (a) The claimant shall notify the department upon filing  
218 a civil action against the state or any political subdivision  
219 thereof in which the claimant is seeking monetary damages  
220 related to the claimant's wrongful incarceration for which he or  
221 she previously received or is applying to receive compensation  
222 under paragraph (1) (a).

223       (b) Upon notice of the claimant's civil action, the  
224 department shall file in the case a notice of payment of  
225 monetary compensation to the claimant under paragraph (1) (a).  
226 The notice shall constitute a lien upon any monetary judgment or  
227 settlement recovered under the civil action which is equal to  
228 the sum of monetary compensation paid to the claimant under  
229 paragraph (1) (a), less any attorney fees and costs incurred in  
230 litigating the civil action or obtaining the settlement  
231 agreement ~~A wrongfully incarcerated person may not submit an~~  
232 ~~application for compensation under this act if the person has a~~



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233 ~~lawsuit pending against the state or any agency,~~  
234 ~~instrumentality, or any political subdivision thereof, or any~~  
235 ~~other entity subject to the provisions of s. 768.28, in state or~~  
236 ~~federal court requesting compensation arising out of the facts~~  
237 ~~in connection with the claimant's conviction and incarceration.~~

238 (7) ~~(a)~~ ~~(b)~~ A wrongfully incarcerated person may not submit  
239 an application for compensation under this act if the person is  
240 the subject of a claim bill pending for claims arising out of  
241 the facts in connection with the claimant's conviction and  
242 incarceration.

243 (b) ~~(e)~~ Once an application is filed under this act, a  
244 wrongfully incarcerated person may not pursue recovery under a  
245 claim bill until the final disposition of the application.

246 (c) ~~(d)~~ ~~Any amount awarded under this act is intended to~~  
247 ~~provide the sole compensation for any and all present and future~~  
248 ~~claims arising out of the facts in connection with the~~  
249 ~~claimant's conviction and incarceration.~~ Upon notification by  
250 the department that an application meets the requirements of  
251 this act, a wrongfully incarcerated person may not recover under  
252 a claim bill.

253 (d) ~~(e)~~ Any compensation awarded under a claim bill shall be  
254 the sole redress for claims arising out of the facts in  
255 connection with the claimant's conviction and incarceration and,  
256 upon any award of compensation to a wrongfully incarcerated  
257 person under a claim bill, the person may not receive  
258 compensation under this act.

259 (8) ~~(7)~~ Any payment made under this act does not constitute  
260 a waiver of any defense of sovereign immunity or an increase in  
261 the limits of liability on behalf of the state or any person

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262 subject to ~~the provisions of~~ s. 768.28 or any other law.

263 (9) (a) The Chief Financial Officer may not draw a warrant  
264 to purchase an annuity for a claimant who is currently  
265 incarcerated:

266 1. In a county, city, or federal jail or other correctional  
267 facility or an institution operated by the Department of  
268 Corrections for a felony conviction other than a crime for which  
269 the claimant was wrongfully convicted; or

270 2. Due to the revocation of parole or probation for a  
271 felony conviction other than a crime for which the claimant was  
272 wrongfully convicted.

273 (b) After a term of imprisonment described in subparagraph  
274 (a)1. or subparagraph (a)2. has concluded, the Chief Financial  
275 Officer shall commence with the drawing of a warrant as  
276 described in this section.

277 Section 4. Section 961.07, Florida Statutes, is amended to  
278 read:

279 961.07 Continuing appropriation.—

280 (1) Beginning in the 2023-2024 ~~2008-2009~~ fiscal year and  
281 continuing each fiscal year thereafter, a sum sufficient to pay  
282 the approved payments under s. 961.03(1)(b)1. ~~this act~~ is  
283 appropriated from the General Revenue Fund to the Chief  
284 Financial Officer, which sum is further appropriated for  
285 expenditure pursuant to ~~the provisions of~~ this act.

286 (2) Payments for petitions filed pursuant to s.  
287 961.03(1)(b)2. are subject to specific appropriation.

288 Section 5. This act shall take effect July 1, 2023.