

By the Committee on Criminal Justice; and Senator Bradley

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1 A bill to be entitled
 2 An act relating to compensation for wrongfully
 3 incarcerated persons; amending s. 961.02, F.S.;
 4 deleting an obsolete definition; amending s. 961.03,
 5 F.S.; revising requirements for when a petition
 6 seeking compensation must be filed; providing that a
 7 deceased person's heirs, successors, or assigns do not
 8 have standing to file such a petition; amending s.
 9 961.04, F.S.; revising compensation eligibility
 10 requirements; amending s. 961.06, F.S.; revising
 11 requirements for awarding compensation; amending s.
 12 961.07, F.S.; revising requirements for continuing
 13 appropriations; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (6) of section 961.02, Florida
 18 Statutes, is amended to read:

19 961.02 Definitions.—As used in ss. 961.01-961.07, the term:
 20 ~~(6) "Violent felony" means a felony listed in s.~~
 21 ~~775.084(1)(c)1. or s. 948.06(8)(c).~~

22 Section 2. Paragraph (b) of subsection (1) of section
 23 961.03, Florida Statutes, is amended, and paragraph (c) is added
 24 to that subsection, to read:

25 961.03 Determination of status as a wrongfully incarcerated
 26 person; determination of eligibility for compensation.—

27 (1)

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

29 1. Within 2 years ~~90 days~~ after the order vacating a

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30 conviction and sentence becomes final and the criminal charges
31 against the person are dismissed or the person is retried and
32 acquitted if the person's conviction and sentence is vacated on
33 or after July 1, 2023 ~~2008~~.

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

41 a. The date on which the criminal charges against the
42 person were dismissed or the date on which the person was
43 acquitted upon retrial occurred more than 90 days after the date
44 of the final order vacating the conviction and sentence; or

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

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

53 Section 3. Section 961.04, Florida Statutes, is amended to
54 read:

55 961.04 Eligibility for compensation for wrongful
56 incarceration.—A wrongfully incarcerated person is not eligible
57 for compensation under the act for any period of incarceration
58 during which the person was concurrently serving a sentence for

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59 a conviction of another felony for which such person was
60 lawfully incarcerated if:

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

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

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

80 ~~(4) During the person's wrongful incarceration, the person~~
81 ~~was convicted of, or pled guilty or nolo contendere to,~~
82 ~~regardless of adjudication, more than one felony that is not a~~
83 ~~violent felony; or~~

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

87 Section 4. Section 961.06, Florida Statutes, is amended to

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88 read:

89 961.06 Compensation for wrongful incarceration.—

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

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

103 (b) A waiver of tuition and fees for up to 120 hours of
104 instruction at any career center established under s. 1001.44,
105 any Florida College System institution as defined in s.
106 1000.21(3), or any state university as defined in s. 1000.21(6)†
107 if the wrongfully incarcerated person meets and maintains the
108 regular admission requirements of such career center, Florida
109 College System institution, or state university; remains
110 registered at such educational institution; and makes
111 satisfactory academic progress as defined by the educational
112 institution in which the claimant is enrolled.†

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

115 (d) The amount of any reasonable attorney ~~attorney's~~ fees
116 and expenses incurred and paid by the wrongfully incarcerated

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117 person in connection with all criminal proceedings and appeals
118 regarding the wrongful conviction, to be calculated by the
119 department based upon the supporting documentation submitted as
120 specified in s. 961.05 and

121 (e) Notwithstanding any provision to the contrary in s.
122 943.0583 or s. 943.0585, immediate administrative expunction of
123 the person's criminal record resulting from his or her wrongful
124 arrest, wrongful conviction, and wrongful incarceration. The
125 Department of Legal Affairs and the Department of Law
126 Enforcement shall, upon a determination that a claimant is
127 entitled to compensation, immediately take all action necessary
128 to administratively expunge the claimant's criminal record
129 arising from his or her wrongful arrest, wrongful conviction,
130 and wrongful incarceration. All fees for this process shall be
131 waived.

132
133 The total compensation awarded under paragraphs (a), (c), and
134 (d) may not exceed \$2 million. No further award for attorney
135 attorney's fees, lobbying fees, costs, or other similar expenses
136 shall be made by the state.

137 ~~(2) In calculating monetary compensation under paragraph~~
138 ~~(1)(a), a wrongfully incarcerated person who is placed on parole~~
139 ~~or community supervision while serving the sentence resulting~~
140 ~~from the wrongful conviction and who commits no more than one~~
141 ~~felony that is not a violent felony which results in revocation~~
142 ~~of the parole or community supervision is eligible for~~
143 ~~compensation for the total number of years incarcerated. A~~
144 ~~wrongfully incarcerated person who commits one violent felony or~~
145 ~~more than one felony that is not a violent felony that results~~

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146 ~~in revocation of the parole or community supervision is~~
147 ~~ineligible for any compensation under subsection (1).~~

148 (2)~~(3)~~ Except as provided in subsection (4), within 15
149 calendar days after issuing notice to the claimant that his or
150 her claim satisfies all of the requirements under this act, the
151 department shall notify the Chief Financial Officer to draw a
152 warrant from the General Revenue Fund or another source
153 designated by the Legislature in law for the purchase of an
154 annuity for the claimant based on the total amount determined by
155 the department under this act.

156 (3)~~(4)~~ The Chief Financial Officer shall issue payment in
157 the amount determined by the department to an insurance company
158 or other financial institution admitted and authorized to issue
159 annuity contracts in this state to purchase an annuity or
160 annuities, selected by the wrongfully incarcerated person, for a
161 term of not less than 10 years. The Chief Financial Officer is
162 directed to execute all necessary agreements to implement this
163 act and to maximize the benefit to the wrongfully incarcerated
164 person. The terms of the annuity or annuities shall:

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

168 (b) Contain beneficiary provisions for the continued
169 disbursement of the annuity or annuities in the event of the
170 death of the wrongfully incarcerated person.

171 (4) (a) The Chief Financial Officer may not draw a warrant
172 to purchase an annuity for a claimant who is currently
173 incarcerated:

174 1. In a county, city, or federal jail or other correctional

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175 facility or an institution operated by the Department of
176 Corrections for a felony conviction other than a crime for which
177 the claimant was wrongfully convicted; or

178 2. Due to the revocation of parole or probation for a
179 felony conviction other than a crime for which the claimant was
180 wrongfully convicted.

181 (b) After a term of incarceration described in subparagraph
182 (a)1. or subparagraph (a)2. has concluded, the Chief Financial
183 Officer shall commence with the drawing of a warrant as
184 described in this section.

185 (5) Before the department approves the application for
186 compensation, the wrongfully incarcerated person must sign a
187 release and waiver on behalf of the wrongfully incarcerated
188 person and his or her heirs, successors, and assigns, forever
189 releasing the state or any agency, instrumentality, or any
190 political subdivision thereof, or any other entity subject to s.
191 768.28, from all present or future claims that the wrongfully
192 incarcerated person or his or her heirs, successors, or assigns
193 may have against such entities arising out of the facts in
194 connection with the wrongful conviction for which compensation
195 is being sought under the act.

196 (6) (a) A wrongfully incarcerated person may not submit an
197 application for compensation under this act if the person has a
198 lawsuit pending against the state or any agency,
199 instrumentality, or any political subdivision thereof, or any
200 other entity subject to the provisions of s. 768.28, in state or
201 federal court requesting compensation arising out of the facts
202 in connection with the claimant's conviction and incarceration.

203 (b) A wrongfully incarcerated person may not submit an

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204 application for compensation under this act if the person is the
205 subject of a claim bill pending for claims arising out of the
206 facts in connection with the claimant's conviction and
207 incarceration.

208 (c) Once an application is filed under this act, a
209 wrongfully incarcerated person may not pursue recovery under a
210 claim bill until the final disposition of the application.

211 (d) Any amount awarded under this act is intended to
212 provide the sole compensation for any and all present and future
213 claims arising out of the facts in connection with the
214 claimant's conviction and incarceration. Upon notification by
215 the department that an application meets the requirements of
216 this act, a wrongfully incarcerated person may not recover under
217 a claim bill.

218 (e) Any compensation awarded under a claim bill shall be
219 the sole redress for claims arising out of the facts in
220 connection with the claimant's conviction and incarceration and,
221 upon any award of compensation to a wrongfully incarcerated
222 person under a claim bill, the person may not receive
223 compensation under this act.

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

228 Section 5. Section 961.07, Florida Statutes, is amended to
229 read:

230 961.07 Continuing appropriation.—Beginning in the 2023-2024
231 ~~2008-2009~~ fiscal year and continuing each fiscal year
232 thereafter, a sum sufficient to pay the approved payments under

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233 s. 961.03(1)(b) ~~this act~~ is appropriated from the General
234 Revenue Fund to the Chief Financial Officer, which sum is
235 further appropriated for expenditure pursuant to ~~the provisions~~
236 ~~of~~ this act.

237 Section 6. This act shall take effect July 1, 2023.