

26 Section 2. Paragraph (b) of subsection (1) and subsection
 27 (2) of section 961.03, Florida Statutes, are amended, and
 28 paragraph (c) is added to subsection (1) of that section, to
 29 read:

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

33 (1)

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

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

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

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

59 (2) The prosecuting authority must respond to the petition
60 within 30 days. If the prosecuting authority moved to vacate the
61 person's conviction and sentence in the original sentencing
62 court, or otherwise did not object to the original sentencing
63 court vacating the person's conviction and sentence, the
64 prosecuting authority must petition the Governor within 15 days
65 after the filing of a petition under subsection (1) to appoint a
66 prosecuting authority from another judicial circuit to be
67 substituted as the prosecuting authority for the purposes of
68 complying with the requirements of this section. Within 10 days
69 after the filing of a petition under this subsection, the
70 Governor must appoint a substitute prosecuting authority who is
71 responsible for complying with the requirements of this section.
72 If a petition is filed under this subsection, the time period in
73 which the prosecuting authority must respond to a petition filed
74 under subsection (1) is tolled until the date the Governor
75 appoints a substitute prosecuting authority. The prosecuting

76 authority may respond:

77 (a) By certifying to the court that, based upon the
 78 petition and verifiable and substantial evidence of actual
 79 innocence, no further criminal proceedings in the case at bar
 80 can or will be initiated by the prosecuting authority, that no
 81 questions of fact remain as to the petitioner's wrongful
 82 incarceration, and that the petitioner is not ineligible from
 83 seeking compensation under ~~the provisions of~~ s. 961.04; or

84 (b) By contesting the nature, significance, or effect of
 85 the evidence of actual innocence, the facts related to the
 86 petitioner's alleged wrongful incarceration, or whether the
 87 petitioner is ineligible from seeking compensation under ~~the~~
 88 ~~provisions of~~ s. 961.04.

89 Section 3. Section 961.04, Florida Statutes, is amended to
 90 read:

91 961.04 Eligibility for compensation for wrongful
 92 incarceration.—A wrongfully incarcerated person is not eligible
 93 for compensation under the act for any period of incarceration
 94 during which the person was concurrently serving a sentence for
 95 a conviction of another felony for which such person was
 96 lawfully incarcerated if:

97 ~~(1) Before the person's wrongful conviction and~~
 98 ~~incarceration, the person was convicted of, or pled guilty or~~
 99 ~~nolo contendere to, regardless of adjudication, any violent~~
 100 ~~felony, or a crime committed in another jurisdiction the~~

101 ~~elements of which would constitute a violent felony in this~~
102 ~~state, or a crime committed against the United States which is~~
103 ~~designated a violent felony, excluding any delinquency~~
104 ~~disposition;~~

105 ~~(2) Before the person's wrongful conviction and~~
106 ~~incarceration, the person was convicted of, or pled guilty or~~
107 ~~nolo contendere to, regardless of adjudication, more than one~~
108 ~~felony that is not a violent felony, or more than one crime~~
109 ~~committed in another jurisdiction, the elements of which would~~
110 ~~constitute a felony in this state, or more than one crime~~
111 ~~committed against the United States which is designated a~~
112 ~~felony, excluding any delinquency disposition;~~

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

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

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

123 Section 4. Section 961.06, Florida Statutes, is amended to
124 read:

125 961.06 Compensation for wrongful incarceration.—

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

130 (a) Monetary compensation for wrongful incarceration,
 131 which shall be calculated at a rate of \$50,000 for each year of
 132 wrongful incarceration, prorated as necessary to account for a
 133 portion of a year. For persons found to be wrongfully
 134 incarcerated after December 31, 2005 ~~2008~~, the Chief Financial
 135 Officer may adjust the annual rate of compensation for inflation
 136 using the change in the December-to-December "Consumer Price
 137 Index for All Urban Consumers" of the Bureau of Labor Statistics
 138 of the Department of Labor.†

139 (b) A waiver of tuition and fees for up to 120 hours of
 140 instruction at any career center established under s. 1001.44,
 141 any Florida College System institution as defined in s.
 142 1000.21(3), or any state university as defined in s. 1000.21(6) ~~†~~
 143 if the wrongfully incarcerated person meets and maintains the
 144 regular admission requirements of such career center, Florida
 145 College System institution, or state university; remains
 146 registered at such educational institution; and makes
 147 satisfactory academic progress as defined by the educational
 148 institution in which the claimant is enrolled.†

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

151 (d) The amount of any reasonable attorney ~~attorney's~~ fees
 152 and expenses incurred and paid by the wrongfully incarcerated
 153 person in connection with all criminal proceedings and appeals
 154 regarding the wrongful conviction, to be calculated by the
 155 department based upon the supporting documentation submitted as
 156 specified in s. 961.05. ~~and~~

157 (e) Notwithstanding any provision to the contrary in s.
 158 943.0583 or s. 943.0585, immediate administrative expunction of
 159 the person's criminal record resulting from his or her wrongful
 160 arrest, wrongful conviction, and wrongful incarceration. The
 161 Department of Legal Affairs and the Department of Law
 162 Enforcement shall, upon a determination that a claimant is
 163 entitled to compensation, immediately take all action necessary
 164 to administratively expunge the claimant's criminal record
 165 arising from his or her wrongful arrest, wrongful conviction,
 166 and wrongful incarceration. All fees for this process shall be
 167 waived.

168
 169 The total compensation awarded under paragraphs (a), (c), and
 170 (d) may not exceed \$2 million. No further award for attorney
 171 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses
 172 shall be made by the state.

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

176 ~~from the wrongful conviction and who commits no more than one~~
177 ~~felony that is not a violent felony which results in revocation~~
178 ~~of the parole or community supervision is eligible for~~
179 ~~compensation for the total number of years incarcerated. A~~
180 ~~wrongfully incarcerated person who commits one violent felony or~~
181 ~~more than one felony that is not a violent felony that results~~
182 ~~in revocation of the parole or community supervision is~~
183 ~~ineligible for any compensation under subsection (1).~~

184 (2)~~(3)~~ Except as provided in subsection (4), within 15
185 calendar days after issuing notice to the claimant that his or
186 her claim satisfies all of the requirements under this act, the
187 department shall notify the Chief Financial Officer to draw a
188 warrant from the General Revenue Fund or another source
189 designated by the Legislature in law for the purchase of an
190 annuity for the claimant based on the total amount determined by
191 the department under this act.

192 (3)~~(4)~~ The Chief Financial Officer shall issue payment in
193 the amount determined by the department to an insurance company
194 or other financial institution admitted and authorized to issue
195 annuity contracts in this state to purchase an annuity or
196 annuities, selected by the wrongfully incarcerated person, for a
197 term of not less than 10 years. The Chief Financial Officer is
198 directed to execute all necessary agreements to implement this
199 act and to maximize the benefit to the wrongfully incarcerated
200 person. The terms of the annuity or annuities shall:

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

204 (b) Contain beneficiary provisions for the continued
 205 disbursement of the annuity or annuities in the event of the
 206 death of the wrongfully incarcerated person.

207 (4) (a) The Chief Financial Officer may not draw a warrant
 208 to purchase an annuity for a claimant who is currently
 209 incarcerated:

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

214 2. Due to the revocation of parole or probation for a
 215 felony conviction other than a crime for which the claimant was
 216 wrongfully convicted.

217 (b) After a term of incarceration described in
 218 subparagraph (a)1. or subparagraph (a)2. has concluded, the
 219 Chief Financial Officer shall commence with the drawing of a
 220 warrant as described in this section.

221 (5) Before the department approves the application for
 222 compensation, the wrongfully incarcerated person must sign a
 223 release and waiver on behalf of the wrongfully incarcerated
 224 person and his or her heirs, successors, and assigns, forever
 225 releasing the state or any agency, instrumentality, or any

226 political subdivision thereof, or any other entity subject to s.
227 768.28, from all present or future claims that the wrongfully
228 incarcerated person or his or her heirs, successors, or assigns
229 may have against such entities arising out of the facts in
230 connection with the wrongful conviction for which compensation
231 is being sought under the act.

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

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

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

247 (d) Any amount awarded under this act is intended to
248 provide the sole compensation for any and all present and future
249 claims arising out of the facts in connection with the
250 claimant's conviction and incarceration. Upon notification by

251 the department that an application meets the requirements of
252 this act, a wrongfully incarcerated person may not recover under
253 a claim bill.

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

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

264 Section 5. Section 961.07, Florida Statutes, is amended to
265 read:

266 961.07 Continuing appropriation.—Beginning in the 2023-
267 2024 ~~2008-2009~~ fiscal year and continuing each fiscal year
268 thereafter, a sum sufficient to pay the approved payments under
269 s. 961.03(1)(b) ~~this act~~ is appropriated from the General
270 Revenue Fund to the Chief Financial Officer, which sum is
271 further appropriated for expenditure pursuant to ~~the provisions~~
272 ~~of~~ this act.

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