

By Senator Bradley

6-00356A-25

2025130\_\_

1                                   A bill to be entitled  
2       An act relating to compensation of victims of wrongful  
3       incarceration; amending s. 961.02, F.S.; deleting the  
4       definition of the term "violent felony"; amending s.  
5       961.03, F.S.; expanding the period during which a  
6       petition for compensation for wrongful incarceration  
7       may be filed; providing that certain persons who had  
8       petitions dismissed or who had not previously filed  
9       such petitions may file such petitions; amending s.  
10      961.04, F.S.; providing that a wrongfully incarcerated  
11      person is not eligible for compensation for any period  
12      of incarceration during which the person was  
13      concurrently serving a sentence for a conviction of  
14      another felony for which such person was lawfully  
15      incarcerated; deleting provisions excluding persons  
16      convicted of violent felonies from compensation;  
17      deleting other exclusions; amending s. 961.06, F.S.;  
18      revising provisions concerning the offset of civil  
19      judgments in favor of claimants against awards;  
20      providing that the Chief Financial Officer may not  
21      draw a warrant to purchase an annuity for a claimant  
22      in certain circumstances; requiring the Chief  
23      Financial Officer to draw a warrant after a certain  
24      term has concluded; amending s. 961.07, F.S.; revising  
25      provisions concerning a continuing appropriation for  
26      certain payments; providing that certain payments are  
27      subject to specific appropriation; providing an  
28      effective date.  
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6-00356A-25

2025130\_\_

30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Subsection (6) of section 961.02, Florida  
33 Statutes, is amended to read:

34 961.02 Definitions.—As used in ss. 961.01-961.07, the term:  
35 ~~(6) “Violent felony” means a felony listed in s.~~  
36 ~~775.084(1)(c)1. or s. 948.06(8)(c).~~

37 Section 2. Paragraph (b) of subsection (1) of section  
38 961.03, Florida Statutes, is amended, and paragraph (c) is added  
39 to that subsection, to read:

40 961.03 Determination of status as a wrongfully incarcerated  
41 person; determination of eligibility for compensation.—

42 (1)

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

44 1. Within 2 years ~~90 days~~ after the order vacating a  
45 conviction and sentence becomes final and the criminal charges  
46 against the person are dismissed or the person is retried and  
47 acquitted if the person’s conviction and sentence is vacated on  
48 or after July 1, 2025 ~~2008~~.

49 2. By July 1, 2027 ~~2010~~, if the person’s conviction and  
50 sentence was vacated and the criminal charges against the person  
51 were dismissed or the person was retried and acquitted on or  
52 after January 1, 2006, but before July 1, 2025, and he or she  
53 previously filed a petition under this section that was  
54 dismissed or no petition was filed under this section because:

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

6-00356A-25

2025130\_\_

59        b. The person was convicted of an unrelated felony before  
60 or during his or her wrongful conviction and incarceration and  
61 was ineligible for compensation under s. 961.04 as it existed  
62 before July 1, 2025.

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

67        Section 3. Section 961.04, Florida Statutes, is amended to  
68 read:

69        961.04 Eligibility for compensation for wrongful  
70 incarceration.—A wrongfully incarcerated person is not eligible  
71 for compensation under the act for any period of incarceration  
72 during which the person was concurrently serving a sentence for  
73 a conviction of another felony for which such person was  
74 lawfully incarcerated. if:

75        ~~(1) 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, any violent~~  
78 ~~felony, or a crime committed in another jurisdiction the~~  
79 ~~elements of which would constitute a violent felony in this~~  
80 ~~state, or a crime committed against the United States which is~~  
81 ~~designated a violent felony, excluding any delinquency~~  
82 ~~disposition;~~

83        ~~(2) Before the person's wrongful conviction and~~  
84 ~~incarceration, the person was convicted of, or pled guilty or~~  
85 ~~nolo contendere to, regardless of adjudication, more than one~~  
86 ~~felony that is not a violent felony, or more than one crime~~  
87 ~~committed in another jurisdiction, the elements of which would~~

6-00356A-25

2025130\_\_

88 ~~constitute a felony in this state, or more than one crime~~  
89 ~~committed against the United States which is designated a~~  
90 ~~felony, excluding any delinquency disposition;~~

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

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

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

101 Section 4. Section 961.06, Florida Statutes, is amended to  
102 read:

103 961.06 Compensation for wrongful incarceration.—

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

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

6-00356A-25

2025130\_\_

117 (b) A waiver of tuition and fees for up to 120 hours of  
118 instruction at any career center established under s. 1001.44,  
119 any Florida College System institution as defined in s.  
120 1000.21(5), or any state university as defined in s. 1000.21(9),  
121 if the wrongfully incarcerated person meets and maintains the  
122 regular admission requirements of such career center, Florida  
123 College System institution, or state university; remains  
124 registered at such educational institution; and makes  
125 satisfactory academic progress as defined by the educational  
126 institution in which the claimant is enrolled.†

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

129 (d) The amount of any reasonable attorney ~~attorney's~~ fees  
130 and expenses incurred and paid by the wrongfully incarcerated  
131 person in connection with all criminal proceedings and appeals  
132 regarding the wrongful conviction, to be calculated by the  
133 department based upon the supporting documentation submitted as  
134 specified in s. 961.05.† ~~and~~

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

6-00356A-25

2025130\_\_

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

151 ~~(2) In calculating monetary compensation under paragraph~~  
152 ~~(1)(a), a wrongfully incarcerated person who is placed on parole~~  
153 ~~or community supervision while serving the sentence resulting~~  
154 ~~from the wrongful conviction and who commits no more than one~~  
155 ~~felony that is not a violent felony which results in revocation~~  
156 ~~of the parole or community supervision is eligible for~~  
157 ~~compensation for the total number of years incarcerated. A~~  
158 ~~wrongfully incarcerated person who commits one violent felony or~~  
159 ~~more than one felony that is not a violent felony that results~~  
160 ~~in revocation of the parole or community supervision is~~  
161 ~~ineligible for any compensation under subsection (1).~~

162 (2)(3) Except as provided in subsection (9), within 15  
163 calendar days after issuing notice to the claimant that his or  
164 her claim satisfies all of the requirements under this act, the  
165 department shall notify the Chief Financial Officer to draw a  
166 warrant from the General Revenue Fund or another source  
167 designated by the Legislature in law for the purchase of an  
168 annuity for the claimant based on the total amount determined by  
169 the department under this act.

170 (3)(4) The Chief Financial Officer shall issue payment in  
171 the amount determined by the department to an insurance company  
172 or other financial institution admitted and authorized to issue  
173 annuity contracts in this state to purchase an annuity or  
174 annuities, selected by the wrongfully incarcerated person, for a

6-00356A-25

2025130\_\_

175 term of not less than 10 years. The Chief Financial Officer is  
176 directed to execute all necessary agreements to implement this  
177 act and to maximize the benefit to the wrongfully incarcerated  
178 person. The terms of the annuity or annuities shall:

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

182 (b) Contain beneficiary provisions for the continued  
183 disbursement of the annuity or annuities in the event of the  
184 death of the wrongfully incarcerated person.

185 (4) If, when monetary compensation is determined under  
186 paragraph (1) (a), a court has previously entered a monetary  
187 judgment in favor of the claimant in a civil action related to  
188 the claimant's wrongful incarceration, or the claimant has  
189 entered into a settlement agreement with the state or any  
190 political subdivision thereof related to the claimant's wrongful  
191 incarceration, the amount of the damages in the civil action or  
192 settlement agreement, less any sums paid for attorney fees or  
193 costs incurred in litigating the civil action or obtaining the  
194 settlement agreement, shall be deducted from the total monetary  
195 compensation to which the claimant is entitled under this  
196 section.

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

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

202 2. The claimant enters into a settlement agreement with the  
203 state or any political subdivision thereof related to the

6-00356A-25

2025130\_\_

204 claimant's wrongful incarceration,  
205  
206 the claimant shall reimburse the state for the monetary  
207 compensation paid under paragraph (1) (a), less any sums paid for  
208 attorney fees or costs incurred in litigating the civil action  
209 or obtaining the settlement agreement.

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

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

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

221 (b) Upon notice of the claimant's civil action, the  
222 department shall file in the case a notice of payment of  
223 monetary compensation to the claimant under paragraph (1) (a).  
224 The notice shall constitute a lien upon any monetary judgment or  
225 settlement recovered under the civil action which is equal to  
226 the sum of monetary compensation paid to the claimant under  
227 paragraph (1) (a), less any attorney fees and costs incurred in  
228 litigating the civil action or obtaining the settlement  
229 agreement

230 ~~(5) Before the department approves the application for~~  
231 ~~compensation, the wrongfully incarcerated person must sign a~~  
232 ~~release and waiver on behalf of the wrongfully incarcerated~~



6-00356A-25

2025130\_\_

233 ~~person and his or her heirs, successors, and assigns, forever~~  
234 ~~releasing the state or any agency, instrumentality, or any~~  
235 ~~political subdivision thereof, or any other entity subject to s.~~  
236 ~~768.28, from all present or future claims that the wrongfully~~  
237 ~~incarcerated person or his or her heirs, successors, or assigns~~  
238 ~~may have against such entities arising out of the facts in~~  
239 ~~connection with the wrongful conviction for which compensation~~  
240 ~~is being sought under the act.~~

241 ~~(6) (a) A wrongfully incarcerated person may not submit an~~  
242 ~~application for compensation under this act if the person has a~~  
243 ~~lawsuit pending against the state or any agency,~~  
244 ~~instrumentality, or any political subdivision thereof, or any~~  
245 ~~other entity subject to the provisions of s. 768.28, in state or~~  
246 ~~federal court requesting compensation arising out of the facts~~  
247 ~~in connection with the claimant's conviction and incarceration.~~

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

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

256 ~~(c) (d)~~ (c) Any amount awarded under this act is intended to  
257 provide the sole compensation for any and all present and future  
258 claims arising out of the facts in connection with the  
259 claimant's conviction and incarceration. Upon notification by  
260 the department that an application meets the requirements of  
261 this act, a wrongfully incarcerated person may not recover under

6-00356A-25

2025130\_\_

262 a claim bill.

263 (d)~~(e)~~ Any compensation awarded under a claim bill shall be  
264 the sole redress for claims arising out of the facts in  
265 connection with the claimant's conviction and incarceration and,  
266 upon any award of compensation to a wrongfully incarcerated  
267 person under a claim bill, the person may not receive  
268 compensation under this act.

269 (8)~~(7)~~ Any payment made under this act does not constitute  
270 a waiver of any defense of sovereign immunity or an increase in  
271 the limits of liability on behalf of the state or any person  
272 subject to ~~the provisions of~~ s. 768.28 or any other law.

273 (9) (a) The Chief Financial Officer may not draw a warrant  
274 to purchase an annuity for a claimant who is currently  
275 incarcerated:

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

280 2. Due to the revocation of parole or probation for a  
281 felony conviction other than a crime for which the claimant was  
282 wrongfully convicted.

283 (b) After a term of incarceration described in subparagraph  
284 (a)1. or subparagraph (a)2. has concluded, the Chief Financial  
285 Officer shall commence with the drawing of a warrant as  
286 described in this section.

287 Section 5. Section 961.07, Florida Statutes, is amended to  
288 read:

289 961.07 Continuing appropriation.—

290 (1) Beginning in the 2025-2026 ~~2008-2009~~ fiscal year and

6-00356A-25

2025130\_\_

291 continuing each fiscal year thereafter, a sum sufficient to pay  
292 the approved payments under s. 961.03(1)(b)1. ~~this act~~ is  
293 appropriated from the General Revenue Fund to the Chief  
294 Financial Officer, which sum is further appropriated for  
295 expenditure pursuant to ~~the provisions of~~ this act.

296 (2) Payments for petitions filed pursuant to s.  
297 961.03(1)(b)2. are subject to specific appropriation.

298 Section 6. This act shall take effect July 1, 2025.