

CHAPTER 2025-194

Senate Bill No. 130

An act relating to compensation of victims of wrongful incarceration; amending s. 961.02, F.S.; deleting the definition of the term “violent felony”; amending s. 961.03, F.S.; expanding the period during which a petition for compensation for wrongful incarceration may be filed; providing that certain persons who had petitions dismissed or who had not previously filed such petitions may file such petitions; amending s. 961.04, F.S.; providing that a wrongfully incarcerated person is not eligible for compensation for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another felony for which such person was lawfully incarcerated; deleting provisions excluding persons convicted of violent felonies from compensation; deleting other exclusions; amending s. 961.06, F.S.; revising provisions concerning the offset of civil judgments in favor of claimants against awards; providing that the Chief Financial Officer may not draw a warrant to purchase an annuity for a claimant in certain circumstances; requiring the Chief Financial Officer to draw a warrant after a certain term has concluded; amending s. 961.07, F.S.; revising provisions concerning a continuing appropriation for certain payments; providing that certain payments are subject to specific appropriation; providing an effective date.

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

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

961.02 Definitions.—As used in ss. 961.01-961.07, the term:

(6) ~~“Violent felony” means a felony listed in s. 775.084(1)(c)1. or s. 948.06(8)(e).~~

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

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

(1)

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

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

2. By July 1, 2027 2010, 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 on or after January 1, 2006, but before July 1, 2025, and he or she previously filed a petition under this section that was dismissed or no petition was filed under this section because:

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

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

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

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

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

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

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

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

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

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

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

961.06 Compensation for wrongful incarceration.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c)(d)~~ Any amount awarded under this 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 conviction and incarceration. Upon notification by the department that an application meets the requirements of this act, a wrongfully incarcerated person may not recover under a claim bill.

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

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

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

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

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

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

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

961.07 Continuing appropriation.—

(1) Beginning in the ~~2025-2026~~ ~~2008-2009~~ fiscal year and continuing each fiscal year thereafter, a sum sufficient to pay the approved payments under ~~s. 961.03(1)(b)1.~~ this act is appropriated from the General Revenue Fund to the Chief Financial Officer, which sum is further appropriated for expenditure pursuant to ~~the provisions of this act.~~

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

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

Approved by the Governor June 27, 2025.

Filed in Office Secretary of State June 27, 2025.