



Substitute House Bill No. 5933

Public Act No. 08-143

AN ACT CONCERNING THE COMPENSATION OF WRONGFULLY CONVICTED AND INCARCERATED PERSONS, THE DUTIES AND DURATION OF THE SENTENCING TASK FORCE AND THE PREPARATION OF RACIAL AND ETHNIC IMPACT STATEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2008*) (a) A person is eligible to receive compensation for wrongful incarceration if:

(1) Such person has been convicted by this state of one or more crimes, of which the person was innocent, has been sentenced to a term of imprisonment for such crime or crimes and has served all or part of such sentence; and

(2) Such person's conviction was vacated or reversed and the complaint or information dismissed on grounds of innocence, or the complaint or information dismissed on a ground consistent with innocence.

(b) A person who meets the eligibility requirements of subsection (a) of this section may present a claim against the state for such compensation with the Claims Commissioner in accordance with the provisions of chapter 53 of the general statutes. The provisions of said chapter shall be applicable to the presentment, hearing and

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determination of such claim except as otherwise provided in this section.

(c) At the hearing on such claim, such person shall have the burden of establishing by a preponderance of the evidence that such person meets the eligibility requirements of subsection (a) of this section. In addition, such person shall present evidence as to the damages suffered by such person which may include, but are not limited to, claims for loss of liberty and enjoyment of life, loss of earnings, loss of earning capacity, loss of familial relationships, loss of reputation, physical pain and suffering, mental pain and suffering and attorney's fees and other expenses arising from or related to such person's arrest, prosecution, conviction and incarceration.

(d) If the Claims Commissioner determines that such person has established such person's eligibility under subsection (a) of this section by a preponderance of the evidence, the Claims Commissioner shall order the immediate payment to such person of compensation for such wrongful incarceration. In determining the amount of such compensation, the Claims Commissioner shall consider relevant factors including, but not limited to, the evidence presented by the person under subsection (c) of this section as to the damages suffered by such person and whether any negligence or misconduct by any officer, agent, employee or official of the state or any political subdivision of the state contributed to such person's arrest, prosecution, conviction or incarceration.

(e) In addition to the compensation paid under subsection (d) of this section, the Claims Commissioner may order payment for the expenses of employment training and counseling, tuition and fees at any constituent unit of the state system of higher education and any other services such person may need to facilitate such person's reintegration into the community.

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(f) Any person claiming compensation under this section based on a pardon that was granted or the dismissal of a complaint or information that occurred before the effective date of this section shall file such claim not later than two years after the effective date of this section. Any person claiming compensation under this section based on a pardon that was granted or the dismissal of a complaint that occurred on or after the effective date of this section shall file such claim not later than two years after the date of such pardon or dismissal.

(g) Nothing in this section shall be construed to prevent such person from pursuing any other action or remedy at law or in equity that such person may have against the state and any political subdivision of the state and any officer, agent, employee or official thereof arising out of such wrongful conviction and incarceration.

Sec. 2. (*Effective from passage*) (a) The advisory commission on wrongful convictions established pursuant to section 54-102pp of the general statutes shall monitor and evaluate the implementation of (1) the procedure for the compensation of wrongfully incarcerated persons established under section 1 of this act, (2) the pilot program to electronically record the interrogations of arrested persons, and (3) eyewitness identification procedures that, when practicable, use a double-blind administration wherein the person conducting the identification procedure is not aware of which person in the photo lineup or live lineup is suspected as being the perpetrator of the crime.

(b) Not later than January 7, 2009, the advisory commission shall report its findings and recommendations to the joint standing committee of the General Assembly on judiciary in accordance with section 11-4a of the general statutes.

Sec. 3. Subsection (d) of section 6 of public act 06-193 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(d) The task force shall:

(1) Identify overarching criminal justice and sentencing goals and policies;

(2) Define current sentencing models including sentencing guidelines, criteria, exemptions and enhancements;

(3) Analyze sentencing trends by offense types and offender characteristics;

(4) Review the actual versus intended impact of sentencing policies;

(5) Determine the direct and indirect costs associated with sentencing policies;

(6) Review the fines and terms of imprisonment specified for violations of criminal statutes that are classified or unclassified felonies or misdemeanors and make recommendations including, but not limited to: (A) Whether crimes that are currently unclassified should be classified; (B) whether certain classified crimes should be reclassified or the penalties for certain unclassified crimes should be revised in order to make the penalties for similar crimes more uniform; (C) whether the penalty or type of penalty for certain crimes should be revised or eliminated where such penalty or type of penalty is no longer deemed necessary or appropriate or is disproportionate to the severity of the crime; and (D) whether crimes that are obsolete should be repealed; [and]

(7) Make any recommendations for the revision of criminal justice and sentencing policies as deemed necessary; and

(8) Not later than January 7, 2009, make a recommendation as to whether a permanent sentencing commission should be established and, if so, make recommendations concerning the mission, duties,

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membership and procedures of such a commission.

Sec. 4. Subsection (g) of section 6 of public act 06-193 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) The task force shall report its findings and recommendations to the joint standing committee of the General Assembly on the judiciary in accordance with section 11-4a of the general statutes not later than [December 1, 2008] July 1, 2009. The task force shall terminate upon the completion of its duties.

Sec. 5. (NEW) (*Effective from passage*) (a) Beginning with the session of the General Assembly commencing on January 7, 2009, a racial and ethnic impact statement shall be prepared with respect to certain bills and amendments that could, if passed, increase or decrease the pretrial or sentenced population of the correctional facilities in this state.

(b) Not later than January 1, 2009, the joint standing committee of the General Assembly on judiciary shall make recommendations for a provision to be included in the joint rules of the House of Representatives and the Senate concerning the procedure for the preparation of such racial and ethnic impact statements, the content of such statements and the types of bills and amendments with respect to which such statements should be prepared.