



## || SENATE OF PENNSYLVANIA BILL SUMMARY

### Senate Bill 1274 Printer's No. 1850

Prime Sponsor: Senator Greenleaf  
Committee: Judiciary

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#### **SYNOPSIS:**

This bill amends Title 42 (Judiciary and Judicial Procedure) to allow claims for wrongful conviction and imprisonment.

#### **SUMMARY:**

##### *Sovereign Immunity*

This bill creates a tenth exception to sovereign immunity for claims of wrongful conviction and imprisonment brought in accordance with a new subchapter.

##### *Eligibility and Statement of Claim*

In order to bring a claim for wrongful conviction and imprisonment, the claimant must have been convicted and imprisoned for one or more crimes that the person did not commit, released from prison, and established as actually innocent by clear and convincing evidence. The claimant's actual innocence must be established by a gubernatorial pardon for the crime for which the claimant was sentenced and which is the basis of the claim; an order reversing or vacating the judgment of conviction on grounds consistent with innocence; or either a retrial resulting in acquittal or a decision to retry the claimant.

A claimant is not entitled to compensation for any portion of a sentence spent incarcerated during which the claimant was also serving a consecutive or concurrent sentence for another crime to which the new subchapter does not apply. The claimant's acceptance of an award, compromise, or settlement under this new subchapter completely bars any further action against the Commonwealth for the same subject matter.

##### *Commonwealth Court*

Claims for wrongful conviction and imprisonment must be brought in the Commonwealth Court, which will be required to establish rules for such claims that emphasize informality. Claimants shall not be required to be represented or accompanied by an attorney. The bill requires the court to hold a hearing after providing notice to the claimant and either the Attorney General or the district attorney of the district where the claimant was prosecuted for the applicable offenses. The Attorney General or district attorney may present evidence and argument in opposition to the claim for damages.

##### *Damages*

If the Commonwealth Court finds that the claimant was wrongfully convicted and imprisoned, the court may award a minimum of \$50,000 for each year of incarceration, adjusted for inflation from the

effective date of this legislation. The court may award the damages in an annuity or in a lump sum, depending on the choice of the claimant. The court may award compensation for reasonable reintegrative services and mental and physical health care costs incurred by the claimant after release from incarceration.

The court may award reasonable attorneys' fees calculated at 10% of the damage award plus expenses, but the fees may not exceed \$75,000, adjusted for inflation, unless there is good cause for exceeding that amount. The fees and costs of counsel will not be deducted from the award to the claimant. The court may compensate those who were owed child support payments from the claimant during the claimant's incarceration, and those amounts must be deducted from the award to the claimant.

When the court decides upon damages, the court must consider all circumstances of the claim, including the length of the wrongful incarceration, injuries sustained by the claimant during the incarceration, and any need for financial aid. The damage award is not subject to any cap that is applicable to claims filed by private parties in civil lawsuits. The damage award may not be offset by any expenses incurred by the Commonwealth or a political subdivision, such as costs related to the claimant's incarceration, clothing, food, or medical care. To the extent that court costs, fines, or restitution have been collected from the claimant, those amounts shall be reimbursed to the claimant. The Commonwealth Court's decision in favor of a claimant shall include an automatic expungement of the criminal history record that forms the basis of the claim. The damage award is not subject to state taxes.

#### *Statute of Limitations*

A claim for wrongful conviction and incarceration must be brought within two years after either the grant of a pardon or the grant of judicial relief. Any action of the Commonwealth challenging the judicial relief tolls the two-year statute of limitations. Persons who were convicted, incarcerated, and released from custody before the effective date of this legislation shall commence an action within five years of the effective date.

#### **EFFECTIVE DATE:**

This bill is effective in 180 days.

#### **BILL HISTORY:**

None.

Prepared by: Cawley 6/3/2016