



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 291 (Substitute S-1 as reported)
Sponsor: Senator Steven Bieda
Committee: Judiciary

CONTENT

The bill would create the "Wrongful Imprisonment Compensation Act" to allow a person to bring an action for compensation against the State if he or she had been wrongfully convicted under Michigan law and imprisoned in a State correctional facility for a crime he or she did not commit. The bill would do the following:

- Establish procedures for such an action.
- Require a copy of the complaint to be served on the Attorney General and the office of the prosecuting attorney who prosecuted the crime.
- Require the prosecuting attorney to notify the victim of the crime that an application for compensation had been filed, if the plaintiff's conviction were for an assaultive crime or a serious misdemeanor.
- Specify that the victim, or his or her representative, would have the right to appear at a proceeding under the Act and to make a statement.
- Require the court to award compensation if it found that a plaintiff was wrongfully convicted and imprisoned.
- Require compensation to include \$60,000 per year for the period of incarceration; economic damages, including lost wages and other expenses; reasonable attorney fees; and reimbursement of any amount collected from the plaintiff by the State under the State Correctional Facility Reimbursement Act.
- Prohibit compensation from being awarded for any time during which the plaintiff was imprisoned under a concurrent or consecutive sentence for another conviction, or for any injury sustained during imprisonment.
- Specify that an award under the proposed Act would not be a finding of wrongdoing against anyone and would not be admissible in evidence in a civil action related to the investigation, prosecution, or conviction that gave rise to the wrongful conviction or imprisonment.
- Provide that a plaintiff's acceptance of an award or settlement would bar any further action by the plaintiff against the State based on the same matter.
- Provide that a plaintiff would remain liable for any child support payments or arrearages, except those erroneously accrued while he or she was imprisoned.
- Require child support to be deducted from an award before the plaintiff received any of the money from it.
- Specify that the Act would not impair or limit the right of a State or local government to collect a debt from the plaintiff's award.
- Specify that an award under the Act would be subject to setoff or reimbursement for damages obtained for wrongful conviction or imprisonment from any other person.
- Require a court that determined a plaintiff had been wrongfully convicted and imprisoned to expunge records from the person's criminal history.
- Require a reimbursement of amounts collected under the State Correctional Facility Reimbursement Act to be paid from the General Fund.

- Require an action for compensation to begin within three years after entry of a verdict, order, or judgment reversing or vacating a wrongful conviction.
- Specify that an individual convicted, imprisoned, and released from custody before the Act's effective date would have to commence an action within three years after that date.

The bill would take effect 90 days after its enactment.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on local government and a significant but indeterminate cost to State government. According to the National Registry of Exonerations (NRE) maintained by the University of Michigan Law School, 60 exonerations have occurred in Michigan to date. Of those 60 documented exonerations, according to the University of Michigan Law School's Innocence Project, 26 individuals would be eligible for the compensation. At a minimum, assuming all 26 individuals would meet the eligibility criteria and receive only the yearly compensation amount, the first year of payments would total \$1.6 million, paid from the General Fund. According to the Innocence Project's dataset, the average number of years of wrongful imprisonment per exoneration is 10.1 for the 26 documented cases. If all payments were made under the conditions in the Innocence Project's dataset, the total minimum costs would be approximately \$15.8 million General Fund/General Purpose. That figure is based on the fixed amounts taken from the bill; however, there are other variables that could increase the figure on a per-case basis given that the compensation could include economic damages, attorney's fees, and other reimbursable amounts. The economic damages portion includes lost wages, which could position the State to make payments for confirmed permanently lost wages for the length of the exoneree's life. Additionally, this bill would allow future claims to be made for exonerations. Since the facts of those cases are currently unknowable, a fiscal impact cannot be determined. As this bill relates exclusively to wrongful imprisonment in a State correctional facility and claims against the State, there would be no fiscal impact on local government.

Date Completed: 9-24-15

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.