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LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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)(c).~~

Section 2. Paragraph (b) of subsection (1) of section



653022

11 961.03, Florida Statutes, is amended, and paragraph (c) is added  
12 to that subsection, to read:

13 961.03 Determination of status as a wrongfully incarcerated  
14 person; determination of eligibility for compensation.—

15 (1)

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

17 1. Within 2 years ~~90 days~~ after the order vacating a  
18 conviction and sentence becomes final and the criminal charges  
19 against the person are dismissed or the person is retried and  
20 acquitted if the person's conviction and sentence is vacated on  
21 or after July 1, 2023 ~~2008~~.

22 2. By July 1, 2025 ~~2010~~, if the person's conviction and  
23 sentence was vacated and the criminal charges against the person  
24 were dismissed or the person was retried and acquitted on or  
25 after January 1, 2006, but before July 1, 2023, and he or she  
26 previously filed a petition under this section that was  
27 dismissed or he or she did not file a petition under this  
28 section because:

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

33 b. The person was convicted of an unrelated felony before  
34 or during his or her wrongful conviction and incarceration and  
35 was ineligible for compensation under s. 961.04 as it existed  
36 before July 1, 2023.

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



653022

40 ~~July 1, 2008.~~

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

43 961.04 Eligibility for compensation for wrongful  
44 incarceration.—A wrongfully incarcerated person is not eligible  
45 for compensation under the act for any period of incarceration  
46 during which the person was concurrently serving a sentence for  
47 a conviction of another felony for which such person was  
48 lawfully incarcerated if:

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

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

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

68 ~~(4) During the person's wrongful incarceration, the person~~



653022

69 ~~was convicted of, or pled guilty or nolo contendere to,~~  
70 ~~regardless of adjudication, more than one felony that is not a~~  
71 ~~violent felony; or~~

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

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

77 961.06 Compensation for wrongful incarceration.—

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

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

91 (b) A waiver of tuition and fees for up to 120 hours of  
92 instruction at any career center established under s. 1001.44,  
93 any Florida College System institution as defined in s.  
94 1000.21(3), or any state university as defined in s. 1000.21(6) ~~†~~  
95 if the wrongfully incarcerated person meets and maintains the  
96 regular admission requirements of such career center, Florida  
97 College System institution, or state university; remains



653022

98 registered at such educational institution; and makes  
99 satisfactory academic progress as defined by the educational  
100 institution in which the claimant is enrolled.~~†~~

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

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

109 (e) Notwithstanding any provision to the contrary in s.  
110 943.0583 or s. 943.0585, immediate administrative expunction of  
111 the person's criminal record resulting from his or her wrongful  
112 arrest, wrongful conviction, and wrongful incarceration. The  
113 Department of Legal Affairs and the Department of Law  
114 Enforcement shall, upon a determination that a claimant is  
115 entitled to compensation, immediately take all action necessary  
116 to administratively expunge the claimant's criminal record  
117 arising from his or her wrongful arrest, wrongful conviction,  
118 and wrongful incarceration. All fees for this process shall be  
119 waived.

120  
121 The total compensation awarded under paragraphs (a), (c), and  
122 (d) may not exceed \$2 million. No further award for attorney  
123 ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses  
124 shall be made by the state.

125 ~~(2) In calculating monetary compensation under paragraph~~  
126 ~~(1)(a), a wrongfully incarcerated person who is placed on parole~~



653022

127 ~~or community supervision while serving the sentence resulting~~  
128 ~~from the wrongful conviction and who commits no more than one~~  
129 ~~felony that is not a violent felony which results in revocation~~  
130 ~~of the parole or community supervision is eligible for~~  
131 ~~compensation for the total number of years incarcerated. A~~  
132 ~~wrongfully incarcerated person who commits one violent felony or~~  
133 ~~more than one felony that is not a violent felony that results~~  
134 ~~in revocation of the parole or community supervision is~~  
135 ~~ineligible for any compensation under subsection (1).~~

136 (2)~~(3)~~ Except as provided in subsection (4), within 15  
137 calendar days after issuing notice to the claimant that his or  
138 her claim satisfies all of the requirements under this act, the  
139 department shall notify the Chief Financial Officer to draw a  
140 warrant from the General Revenue Fund or another source  
141 designated by the Legislature in law for the purchase of an  
142 annuity for the claimant based on the total amount determined by  
143 the department under this act.

144 (3)~~(4)~~ The Chief Financial Officer shall issue payment in  
145 the amount determined by the department to an insurance company  
146 or other financial institution admitted and authorized to issue  
147 annuity contracts in this state to purchase an annuity or  
148 annuities, selected by the wrongfully incarcerated person, for a  
149 term of not less than 10 years. The Chief Financial Officer is  
150 directed to execute all necessary agreements to implement this  
151 act and to maximize the benefit to the wrongfully incarcerated  
152 person. The terms of the annuity or annuities shall:

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



653022

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

159 (4) (a) The Chief Financial Officer may not draw a warrant  
160 to purchase an annuity for a claimant who is currently  
161 incarcerated:

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

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

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

173 (5) Before the department approves the application for  
174 compensation, the wrongfully incarcerated person must sign a  
175 release and waiver on behalf of the wrongfully incarcerated  
176 person and his or her heirs, successors, and assigns, forever  
177 releasing the state or any agency, instrumentality, or any  
178 political subdivision thereof, or any other entity subject to s.  
179 768.28, from all present or future claims that the wrongfully  
180 incarcerated person or his or her heirs, successors, or assigns  
181 may have against such entities arising out of the facts in  
182 connection with the wrongful conviction for which compensation  
183 is being sought under the act.

184 (6) (a) A wrongfully incarcerated person may not submit an



653022

185 application for compensation under this act if the person has a  
186 lawsuit pending against the state or any agency,  
187 instrumentality, or any political subdivision thereof, or any  
188 other entity subject to the provisions of s. 768.28, in state or  
189 federal court requesting compensation arising out of the facts  
190 in connection with the claimant's conviction and incarceration.

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

196 (c) Once an application is filed under this act, a  
197 wrongfully incarcerated person may not pursue recovery under a  
198 claim bill until the final disposition of the application.

199 (d) Any amount awarded under this act is intended to  
200 provide the sole compensation for any and all present and future  
201 claims arising out of the facts in connection with the  
202 claimant's conviction and incarceration. Upon notification by  
203 the department that an application meets the requirements of  
204 this act, a wrongfully incarcerated person may not recover under  
205 a claim bill.

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

212 (7) Any payment made under this act does not constitute a  
213 waiver of any defense of sovereign immunity or an increase in





653022

214 the limits of liability on behalf of the state or any person  
215 subject to ~~the provisions of~~ s. 768.28 or any other law.

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

218 961.07 Continuing appropriation.—Beginning in the 2023-2024  
219 ~~2008-2009~~ fiscal year and continuing each fiscal year  
220 thereafter, a sum sufficient to pay the approved payments under  
221 s. 961.03(1)(b) ~~this act~~ is appropriated from the General  
222 Revenue Fund to the Chief Financial Officer, which sum is  
223 further appropriated for expenditure pursuant to ~~the provisions~~  
224 ~~of~~ this act.

225 Section 6. This act shall take effect July 1, 2023.

226

227 ===== T I T L E A M E N D M E N T =====

228 And the title is amended as follows:

229 Delete everything before the enacting clause  
230 and insert:

231 A bill to be entitled  
232 An act relating to compensation for wrongfully  
233 incarcerated persons; amending s. 961.02, F.S.;  
234 deleting an obsolete definition; amending s. 961.03,  
235 F.S.; revising requirements for when a petition  
236 seeking compensation must be filed; providing that a  
237 deceased person's heirs, successors, or assigns do not  
238 have standing to file such a petition; amending s.  
239 961.04, F.S.; revising compensation eligibility  
240 requirements; amending s. 961.06, F.S.; revising  
241 requirements for awarding compensation; amending s.  
242 961.07, F.S.; revising requirements for continuing



653022

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appropriations; providing an effective date.