



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4286 (Substitute H-1 as passed by the House)
Sponsor: Representative Steven Johnson
House Committee: Appropriations
Senate Committee: Appropriations

Date Completed: 3-20-19

CONTENT

The bill would amend the Wrongful Imprisonment Compensation Act to do the following:

- **Require the Attorney General to report quarterly certain information pertaining to the Wrongful Imprisonment Compensation Fund to the House and Senate Appropriations Committees, House and Senate Fiscal Agencies, and the State Budget Office.**
- **Appropriate \$10.0 million General Fund/General Purpose (GF/GP) to the Wrongful Imprisonment Compensation Fund for fiscal year (FY) 2018-19.**

Under the Act, the State Treasurer is required to notify the Legislature when the Treasurer reasonably believes that within 60 days the money in the Fund will be insufficient to pay claims.

The bill also would require the Attorney General to report quarterly to the House and Senate Appropriations Committees, the House and Senate Fiscal Agencies, and the State Budget Office all of the following as of the end of the quarter:

- All payments made from the Fund in the quarter, indicating for each payment whether it was for a new settlement or award or continued payments for a previous settlement or award.
- Any settlements that had been reached or awards that had been made for which payments were made.
- The number of actions in which an order or judgment was entered denying the claim and the reasons for each denial.
- The number of known claims for compensation, for which there were no final settlements or awards, indicating for each claim, if known, the amount claimed and the potential payment.
- The balance in the Fund.

In addition, the bill would appropriate \$10.0 million GF/GP into the Wrongful Imprisonment Compensation Fund for FY 2018-19.

MCL 691.1756

BACKGROUND

The Wrongful Imprisonment Compensation Fund was created within the Department of Treasury to compensate individuals wrongfully convicted and imprisoned. An award under the Act includes compensation for the time spent in prison and attorney fees incurred in an action

under the Act. The compensation for the time spent in prison is established at \$50,000 for each year the plaintiff was imprisoned with proration for a partial year of imprisonment. The compensation for the attorney fees may not exceed \$50,000 or 10% of the total amount awarded for compensation, whichever is less. A plaintiff is not eligible for compensation if: 1) he or she was convicted of another crime arising from the same transaction, and 2) either the offense was not dismissed or the plaintiff was convicted of that offense on trial. Also, compensation may not be awarded for any time the plaintiff was imprisoned under a concurrent or consecutive sentence for another conviction. The Act prescribes an 18-month filing deadline, under which an individual must commence an action with the Court of Claims to seek compensation. The Attorney General and the individual seeking compensation have the option to appeal initial Court of Claims rulings on compensation claims.

Once an award amount has been determined by the Court of Claims, the Act authorizes the Court to select one of two options to pay the award. The first option is to issue the entire award amount to the individual in one lump-sum payment. The second option is to issue the award amount over multiple payments. If the second option is selected, the initial payments must be at least 20% of the total award amount, and the remainder of the payments must be made within 10 years. All the awards that have been paid out under the Act to date have been single, lump-sum payments.

There are 45 identified individuals who could claim compensation on the Act; the possible claims for these individuals total \$29.2 million. Several claims, totaling \$2.6 million dollars have been challenged for dismissal for a variety of reasons. Also, there have been eight individuals who have either received an award payment or are in the process of receiving an award. These awards total \$5,675,072. This means that the number of potential claims remaining is between \$20.9 and \$23.6 million, depending on the results of challenged claims and additional attorney fees.

Since its creation in 2016, there have been two appropriations into the Wrongful Imprisonment Compensation Fund. The first was a \$5.0 million appropriation in Public Act 107 of 2017 for FY 2016-17, and a \$1.5 million appropriation in Public Act 618 of 2018 for FY 2018-19. After the \$5.7 million in payouts and interest earned in the Fund, there is a Fund balance of around \$849,077 remaining.

With several claims in process that could be paid on in FY 2018-19, the Fund likely will be in shortfall before the end of the fiscal year.

There currently is a quarterly boilerplate report required in Public Act 207 of 2018, which requires the Department of Attorney General to list all payments made from the Fund, any settlements that have been decided and are awaiting payment, a list of the known pending cases that have not received a final judgement, and the Fund balance at the end of the last quarter.

FISCAL IMPACT

The bill would cost the State \$10.0 million GF/GP for the appropriation into the Wrongful Imprisonment Compensation Fund for FY 2018-19. The money in the Fund would remain until claims were paid out. The bill's reporting requirement would have no fiscal impact on the Department of Attorney General.

The bill would have no impact on local units of government.

Fiscal Analyst: Cory Savino

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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.