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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 987 Session of  
2023

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INTRODUCED BY RABB, HOHENSTEIN, GIRAL, SANCHEZ, DELLOSO,  
CONKLIN, KAZEEM, HILL-EVANS, CIRESI, KRAJEWSKI, FLEMING,  
KINKEAD AND SHUSTERMAN, OCTOBER 3, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 3, 2023

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in matters affecting  
3 government units, further providing for exceptions to  
4 sovereign immunity and providing for claims for wrongful  
5 conviction and imprisonment; and establishing the Exonerated  
6 Individual Community Trust Fund.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 8522(b) of Title 42 of the Pennsylvania  
10 Consolidated Statutes is amended by adding a paragraph to read:  
11 § 8522. Exceptions to sovereign immunity.

12 \* \* \*

13 (b) Acts which may impose liability.--The following acts by  
14 a Commonwealth party may result in the imposition of liability  
15 on the Commonwealth and the defense of sovereign immunity shall  
16 not be raised to claims for damages caused by:

17 \* \* \*

18 (11) Wrongful conviction and imprisonment.--Wrongful  
19 conviction and imprisonment for which claims may be brought

1 under Subchapter D (relating to claims for wrongful  
2 conviction and imprisonment).

3 Section 2. Chapter 85 of Title 42 is amended by adding a  
4 subchapter to read:

5 SUBCHAPTER D

6 CLAIMS FOR WRONGFUL CONVICTION AND IMPRISONMENT

7 Sec.

8 8581. Eligibility.

9 8582. Statement of claim and basis of award.

10 8583. Proceedings.

11 8584. Presentation of claim.

12 8585. Compensation.

13 8586. Annuity compensation and payments.

14 8587. Establishment of Exonerated Individual Community Trust  
15 Fund.

16 8588. Board of Trustees.

17 8589. Member Services Council.

18 8590. Report and order.

19 8591. Notice.

20 8592. Statute of limitations and retroactivity.

21 § 8581. Eligibility.

22 (a) Persons who may present claims.--An individual, or the  
23 legal heirs of the individual if the individual is deceased,  
24 convicted and subsequently imprisoned for one or more crimes  
25 that the individual did not commit may present a claim for  
26 damages against the Commonwealth if:

27 (1) The individual has been released from prison.

28 (2) The individual was either pardoned or the conviction  
29 was vacated or reversed.

30 (3) The accusatory instrument was dismissed or if a new

1 trial was granted and the individual was retried and found  
2 not guilty or was not retried and the accusatory instrument  
3 was dismissed.

4 (4) The individual's conviction was overturned and the  
5 individual subsequently pleaded no contest despite asserting  
6 the individual's innocence.

7 (5) The individual was provided with relief from a  
8 criminal conviction under Subchapter B of Chapter 95  
9 (relating to post conviction relief).

10 (b) Concurrent sentences.--Other than credit for time  
11 served, a claimant is not entitled to compensation under this  
12 subchapter for any portion of a sentence spent incarcerated  
13 during which the claimant was also serving a concurrent sentence  
14 for another crime to which this subchapter does not apply.

15 (c) Acceptance by claimant.--The acceptance by the claimant  
16 of any judicial award, compromise or settlement under this title  
17 shall be in writing.

18 § 8582. Statement of claim and basis of award.

19 To present a claim for wrongful conviction and imprisonment  
20 and to obtain a judgment in the claimant's favor, the claimant  
21 must establish that:

22 (1) The claimant has been convicted of one or more  
23 crimes and subsequently sentenced to a term of imprisonment  
24 and has served all or any part of the sentence.

25 (2) The claimant has established by a preponderance of  
26 evidence that the claimant did not commit the crime or crimes  
27 for which the claimant was convicted or act as an accessory  
28 of accomplice. Providing a false confession or pleading  
29 guilty is not a bar to compensation under this section.

30 § 8583. Proceedings.

1 Proceedings before a court of competent jurisdiction shall be  
2 governed by rules established by the Pennsylvania Supreme Court,  
3 which shall emphasize, to the greatest extent possible,  
4 informality of proceedings. No claimant shall be required to be  
5 represented or accompanied by an attorney. If a claimant wishes  
6 to be represented by an attorney, the representation shall be  
7 paid by money in the Exonerated Individual Community Trust Fund.  
8 § 8584. Presentation of claim.

9 A claim of wrongful conviction and imprisonment shall be  
10 presented to and heard by a court of competent jurisdiction. The  
11 following shall apply:

12 (1) Upon presentation of a claim under section 8582  
13 (relating to statement of claim and basis of award), the  
14 court shall fix a time and place to hear the claim, but no  
15 more than 120 days after presentation of the claim.

16 (2) At least 21 days prior to the time fixed for the  
17 hearing, the court shall mail notice of the time fixed for  
18 the hearing to the claimant and to the district attorney  
19 which serves as the basis for this claim.

20 (3) The district attorney may offer evidence and argue  
21 in opposition to the claim for damages.

22 § 8585. Compensation.

23 If a person who presents a claim and is found by the court to  
24 be entitled to compensation, the compensation shall be as  
25 follows:

26 (1) Fifty percent more than the median Pennsylvania  
27 household income from the most recently published United  
28 States Census Bureau data per year of wrongful imprisonment.  
29 In addition, the following variables shall be factored into  
30 determining the total financial starting point for an

1 exonerated individual to be compensated per year of wrongful  
2 incarceration:

3 (i) An additional \$25,000 per year for each year the  
4 exonerated individual was placed on the sex offender  
5 registry.

6 (ii) An additional \$25,000 per year for each year  
7 the exonerated individual was placed on parole.

8 (iii) An additional \$75,000 per year for each year  
9 the exonerated individual was placed on death row.

10 (2) Compensation for child support payments owed by the  
11 person whose imprisonment upon which the claim is based that  
12 became due and interest on child support arrearages that  
13 accrued during the time served in prison but were not paid to  
14 the individual to whom the child support is owed.

15 (3) All of the following:

16 (i) Enrollment in a State employee health plan.

17 (ii) Counseling services, including financial  
18 literacy counseling and continuing mental health  
19 counseling.

20 (iii) The reimbursement of tuition and fees at any  
21 of the following:

22 (A) A university within the State System of  
23 Higher Education under Article XX-A of the act of  
24 March 10, 1949 (P.L.30, No.14), known as the Public  
25 School Code of 1949.

26 (B) A State-related institution, as defined  
27 under section 2001-C of the Public School Code of  
28 1949.

29 (C) A community college in this Commonwealth.

30 (D) A public career and technical school in this

1 Commonwealth.

2 (iv) Assistance with securing affordable housing,  
3 cost-of-living expenses and transportation expenses  
4 during the proceedings and for a period of not less than  
5 12 months after the claimant's award.

6 (v) Compensation for any reasonable reintegrative  
7 services and mental and physical health care costs  
8 incurred by the claimant for the time period between the  
9 claimant's release from incarceration and the date of the  
10 claimant's award.

11 (vi) Additional reasonable attorney fees calculated  
12 at 10% of the damage award plus expenses. Exclusive of  
13 expenses, these fees may not exceed \$75,000, as adjusted  
14 annually to account for inflation from the effective date  
15 of this section, unless the court approves an additional  
16 amount for good cause. The attorney fees may not be  
17 deducted from the compensation due the claimant nor may  
18 the claimant's counsel receive additional fees from the  
19 client for this matter under this subchapter.

20 (vii) A professionally prepared, confidential  
21 digital and physical file containing the claimant's  
22 medical records, diagnoses, medication record, up-to-date  
23 State identification card or driver's license, birth  
24 certificates and any other necessary identifying or  
25 personal historical items, to be required from and  
26 provided by the Department of Corrections. This file, in  
27 all forms, shall only be accessible by the claimant or an  
28 individual given signed, written permission by the  
29 claimant to access the file. A full-time, paid staff  
30 shall be employed in the Department of Corrections to

1 expedite the requirements of this subparagraph.

2 (viii) Access to ongoing mental health services, as  
3 well as services to assist with acquiring future State  
4 identification cards, driver's licenses, passports, birth  
5 certificates and any other necessary identifying items.

6 (4) The following shall apply:

7 (i) If the claimant previously won a monetary award  
8 against the Commonwealth or any political subdivision in  
9 a civil action related to the same subject, or has  
10 entered into a settlement agreement with the Commonwealth  
11 or any political subdivision related to the same subject,  
12 the amount of the award or settlement agreement, less any  
13 sums paid to attorneys for costs in litigating the other  
14 civil action or obtaining the settlement agreement, shall  
15 be deducted from the sum of money to which the claimant  
16 is entitled under paragraph (1) and deposited into the  
17 Exonerated Individual Community Trust Fund.

18 (ii) If subparagraph (i) does not apply, and if the  
19 claimant has been awarded a payment under this subchapter  
20 and subsequently wins a monetary award against the  
21 Commonwealth or any political subdivision in a civil  
22 action related to the same matter or enters into a  
23 settlement agreement with the Commonwealth or any  
24 political subdivision related to the same matter, the  
25 claimant shall reimburse the Commonwealth for the sum of  
26 money paid under paragraph (1), less any amount paid for  
27 attorney fees for costs in litigating the other civil  
28 action or obtaining the settlement award. A reimbursement  
29 required under this subsection may not exceed the amount  
30 of the monetary award the claimant wins for damages in

1 the other civil action or the amount received in the  
2 settlement agreement.

3 (5) For any compensation authorized under this  
4 subchapter, the payment of compensation may be:

5 (i) to or for the benefit of the claimant; or  
6 (ii) if the claimant is deceased, to or for the  
7 benefit of any one or more of the legal heirs of the  
8 claimant.

9 (6) The damage award shall not be subject to any cap  
10 applicable to private parties in civil lawsuits.

11 (7) The compensation shall include reimbursement for any  
12 statutorily mandated and court-assessed costs, fines,  
13 restitution and fees to the extent that they have been  
14 collected.

15 (8) Upon a decision of the court on behalf of the  
16 claimant, the court shall provide the claimant with the  
17 option to automatically expunge or seal their record. If the  
18 claimant does not wish to immediately expunge or seal their  
19 record, they may do so.

20 (9) The compensation shall not be subject to any tax  
21 imposed by the Commonwealth.

22 § 8586. Annuity compensation and payments.

23 (a) General rule.--A person entitled to compensation under  
24 this subchapter shall be entitled to standard annuity payments  
25 under this section unless the person elects to receive  
26 alternative annuity payments.

27 (b) Payments.--Standard annuity payments shall be based on a  
28 present value sum equal to the amount to which the person is  
29 entitled under section 8585 (relating to compensation).

30 (c) Payment of annuity.--A claimant may select one of the



1 following options to provide for the payment of the claimant's  
2 annuity upon the claimant's death:

3 (1) The alternative annuity payments are payable to and  
4 throughout the life of the claimant's designated beneficiary  
5 upon the death of the claimant.

6 (2) Three-fourths of the initial alternative annuity  
7 payment amount is payable to and throughout the life of the  
8 claimant's designated beneficiary upon the death of the  
9 claimant.

10 (3) One-half of the initial alternative annuity payment  
11 amount is payable to and throughout the life of the  
12 claimant's designated beneficiary upon the death of the  
13 claimant.

14 (4) If the claimant dies before 180 monthly alternative  
15 annuity payments have been made, the remainder of the 180  
16 payments are payable to the claimant's designated  
17 beneficiary.

18 (5) If the claimant dies before 120 monthly alternative  
19 annuity payments have been made, the remainder of the 120  
20 payments are payable to the claimant's designated  
21 beneficiary.

22 (d) Election.--An election under subsection (c) must be made  
23 no later than 45 days after the date on which the claimant:

24 (1) files the application for compensation with the  
25 court; or

26 (2) experiences one of the following life-changing  
27 events:

28 (i) Marriage or divorce of the claimant.

29 (ii) The addition of a dependent of the claimant.

30 (iii) The death of a dependent, spouse or

1 beneficiary of the claimant.

2 (e) Form.--An election under subsection (d) must be made on  
3 a form prescribed by the court that:

4 (1) Identifies the claimant's designated beneficiary.

5 (2) Specifies the option selected under subsection (c).

6 (f) Increase of payment upon death of designated  
7 beneficiary.--A claimant who elects to receive alternative  
8 annuity payments under this section that are payable to the  
9 claimant and the claimant's designated beneficiary and survives  
10 the claimant's designated beneficiary is entitled to an increase  
11 in the amount of the claimant's monthly annuity payments so that  
12 the claimant's monthly payments equal the monthly payments the  
13 claimant would have received had the claimant not elected to  
14 receive the alternative annuity payments. The claimant is  
15 entitled to the increased payments beginning the month following  
16 the month in which the claimant's designated beneficiary dies  
17 and ending on the date of the claimant's death.

18 (g) Beneficiary.--A claimant who elects to receive  
19 alternative annuity payments under this section that are payable  
20 to the claimant and the claimant's designated beneficiary and  
21 survives the claimant's designated beneficiary may select a  
22 designated beneficiary or multiple beneficiaries to receive the  
23 remainder of the alternative annuity payments.

24 § 8587. Establishment of Exonerated Individual Community Trust  
25 Fund.

26 (a) Establishment.--The Exonerated Individual Community  
27 Trust Fund is established as a restricted account in the State  
28 Treasury. Money in the account shall be expended in accordance  
29 with this section each fiscal year.

30 (b) Transfer.--An amount equal to the product of multiplying

1 the median Pennsylvania household income as determined by the  
2 most recently published data from the United States Census  
3 Bureau by the number of documented exonerated individuals within  
4 this Commonwealth shall be transferred from the General Fund to  
5 the Exonerated Individual Community Trust Fund within 90 days of  
6 the effective date of this section. The money in the fund is  
7 appropriated to the Exonerated Individual Community Trust Fund  
8 on a continuing basis to carry out the purposes of this section.  
9 In addition to any appropriation, the Commonwealth may apply for  
10 and accept grants, gifts, donations, bequests and settlements  
11 from any public or private source. Money received shall be  
12 deposited into the Exonerated Individual Community Trust Fund  
13 established under this section.

14 (c) Use of fund.--The Board of Trustees, in consultation  
15 with the Member Services Council, shall use money in the  
16 Exonerated Individual Community Trust Fund to benefit  
17 communities that have been impacted by wrongful convictions and  
18 wrongful incarceration and may include:

19 (1) Grants and fellowships for research and advocacy  
20 regarding preventing future wrongful convictions, the  
21 exoneration of incarcerated individuals and reentry of  
22 formerly incarcerated individuals, as approved by the board.

23 (2) Financial assistance to eligible exonerated  
24 individuals who need assistance paying fines, fees or other  
25 one-time or emergent expenses, as approved by the Member  
26 Services Council.

27 (3) Any other requests jointly approved by the Board of  
28 Trustees and the Member Services Council that support  
29 communities impacted by wrongful conviction and wrongful  
30 incarceration.

1 § 8588. Board of Trustees.

2 The following shall apply:

3 (1) The Board of Trustees shall be composed of  
4 professionals from a variety of relevant backgrounds, to be  
5 chosen by the Executive Director of the Pennsylvania  
6 Commission on Crime and Delinquency, including, but not  
7 limited to, the following:

8 (i) Financial advisory services.

9 (ii) Individuals who work in a trauma-informed  
10 field.

11 (iii) Community economic development.

12 (iv) Micro-lending.

13 (v) Social impact investing.

14 (vi) Environmental and social governance.

15 (vii) Democratic workplace operations.

16 (2) An exonerated individual applying for a position on  
17 the board must have received training in financial literacy  
18 or restorative justice or employment in a position with a  
19 focus on restorative justice or a related field. The  
20 following shall apply:

21 (i) The training must be provided through a  
22 certificate program through the Pennsylvania State System  
23 of Higher Education, State-related school or community  
24 college, with input from other State agencies as  
25 appropriate.

26 (ii) The certificate program under subparagraph (i)  
27 must be approved by the Department of Education in an  
28 approval process as determined by the department.

29 (3) The board shall assist the Member Services Council  
30 in using funds to facilitate activities as described in

1 section 8587(c) (relating to establishment of Exonerated  
2 Individual Community Trust Fund).

3 § 8589. Member Services Council.

4 The following shall apply:

5 (1) The council shall review requests for financial  
6 assistance of eligible exonerated individuals who need  
7 assistance paying fines, fees or other one-time or emergent  
8 expenses.

9 (2) Eligible exonerated individuals under paragraph (1)  
10 are individuals with a documented investment in the  
11 individual's health and well-being.

12 (3) The council shall be composed of the following:

13 (i) The Secretary of Community and Economic  
14 Development.

15 (ii) The Executive Director of the Office of  
16 Advocacy and Reform.

17 (iii) The Secretary of Education.

18 (iv) The Secretary of the Office of Environmental  
19 Justice within the Department of Environmental  
20 Protection.

21 (v) The Secretary of Health, or a designee.

22 (vi) The Director of the Department of Health's  
23 Office of Health Equity.

24 (vii) The Secretary of Human Services.

25 (viii) The Chief Diversity, Equity and Inclusion  
26 Officer of the Pennsylvania State System of Higher  
27 Education's Office of Diversity, Equity and Inclusion.

28 (ix) The State Treasurer, or a designee.

29 (x) The Secretary of the Board of Pardons.

30 § 8590. Report and order.

1 The court shall issue a ruling and order and provide the  
2 State Treasurer a statement of the total compensation due and  
3 owing to the claimant from the Commonwealth.  
4 § 8591. Notice.

5 (a) Court.--A court granting judicial relief as described  
6 under section 8582 (relating to statement of claim and basis of  
7 award) shall provide a copy of this subchapter to the individual  
8 seeking relief at the time the court determines that the  
9 claimant's claim is likely to succeed. The individual shall be  
10 required to acknowledge receipt of a copy of this subchapter in  
11 writing on a form established by the Supreme Court. The  
12 acknowledgment shall be entered on the docket by the court and  
13 shall be admissible in any proceeding filed by a claimant under  
14 this subchapter.

15 (b) Board of Pardons.--Upon the issuance of a full pardon on  
16 or after the effective date of this subchapter, the Board of  
17 Pardons shall provide a copy of this subchapter to an individual  
18 when pardoned as described under section 8582. The individual  
19 shall be required to acknowledge receipt of a copy of this  
20 subchapter in writing on a form established by the Board of  
21 Pardons, which shall be retained on file by the Board of Pardons  
22 as part of its official records and shall be admissible in any  
23 proceeding filed by a claimant under this subchapter.

24 (c) Failure to provide notice.--In the event a claimant  
25 granted judicial relief or a full pardon on or after the  
26 effective date of this subchapter shows that the claimant did  
27 not properly receive a copy of the information required under  
28 this section, the claimant shall receive a one-year extension on  
29 the two-year time limit provided under section 8592 (relating to  
30 statute of limitations and retroactivity).

1 § 8592. Statute of limitations and retroactivity.

2 (a) General rule.--Except as provided under subsection (c),  
3 an action for compensation brought by a wrongfully convicted  
4 individual under this subchapter shall be commenced within two  
5 years after either the grant of a pardon or date when the  
6 accusatory instrument was dismissed, or the individual was found  
7 not guilty on retrial.

8 (b) Tolling.--Any action by the Commonwealth challenging or  
9 appealing the grant of judicial relief tolls the two-year  
10 period.

11 (c) Retroactivity.--An individual convicted, incarcerated  
12 and released from custody prior to the effective date of this  
13 subsection may commence an action under this subchapter.

14 Section 3. This act shall take effect in 180 days.