

As Introduced

124th General Assembly
Regular Session
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S. B. No. 149

SENATOR Coughlin

A BILL

To amend section 2743.48 of the Revised Code to
increase the amount that a wrongfully imprisoned
individual, in an action brought in the Court of
Claims, is entitled to for each year of
imprisonment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2743.48 of the Revised Code be
amended to read as follows:

Sec. 2743.48. (A) As used in this section, a "wrongfully
imprisoned individual" means an individual who satisfies each of
the following:

(1) ~~He~~ The individual was charged with a violation of a
section of the Revised Code by an indictment or information prior
to, or on or after, September 24, 1986, and the violation charged
was an aggravated felony or felony.

(2) ~~He~~ The individual was found guilty of, but did not plead
guilty to, the particular charge or a lesser-included offense by
the court or jury involved, and the offense of which ~~he~~ the
individual was found guilty was an aggravated felony or felony.

(3) ~~He~~ The individual was sentenced to an indefinite or
definite term of imprisonment in a state correctional institution

for the offense of which ~~he~~ the individual was found guilty. 21

(4) The individual's conviction was vacated or was dismissed, 22
or reversed on appeal, the prosecuting attorney in the case cannot 23
or will not seek any further appeal of right or upon leave of 24
court, and no criminal proceeding is pending, can be brought, or 25
will be brought by any prosecuting attorney, city director of law, 26
village solicitor, or other chief legal officer of a municipal 27
corporation against the individual for any act associated with 28
that conviction. 29

(5) Subsequent to ~~his~~ sentencing and during or subsequent to 30
~~his~~ imprisonment, it was determined by a court of common pleas 31
that the offense of which ~~he~~ the individual was found guilty, 32
including all lesser-included offenses, either was not committed 33
by ~~him~~ the individual or was not committed by any person. 34

(B)(1) When a court of common pleas determines, on or after 35
September 24, 1986, that a person is a wrongfully imprisoned 36
individual, the court shall provide the person with a copy of this 37
section and orally inform ~~him~~ the person and ~~his~~ the person's 38
attorney of ~~his~~ the person's rights under this section to commence 39
a civil action against the state in the court of claims because of 40
~~his~~ the person's wrongful imprisonment and to be represented in 41
that civil action by counsel of ~~his~~ the person's own choice. 42

(2) The court described in division (B)(1) of this section 43
shall notify the clerk of the court of claims, in writing and 44
within seven days after the date of the entry of its determination 45
that the person is a wrongfully imprisoned individual, of the name 46
and proposed mailing address of the person and of the fact that 47
the person has the rights to commence a civil action and to have 48
legal representation as provided in this section. The clerk of the 49
court of claims shall maintain in ~~his~~ the clerk's office a list of 50
wrongfully imprisoned individuals for whom notices are received 51
under this section and shall create files in ~~his~~ the clerk's 52

office for each such individual. 53

(C)(1) In a civil action under this section, a wrongfully 54
imprisoned individual has the right to have counsel of ~~his~~ the 55
individual's own choice. 56

(2) If a wrongfully imprisoned individual who is the subject 57
of a court determination as described in division (B)(1) of this 58
section does not commence a civil action under this section within 59
six months after the entry of that determination, the clerk of the 60
court of claims shall send a letter to ~~him~~ the wrongfully 61
imprisoned individual, at the address set forth in the notice 62
received from the court of common pleas pursuant to division 63
(B)(2) of this section or to any later address provided by the 64
wrongfully imprisoned individual, that reminds ~~him~~ the wrongfully 65
imprisoned individual of ~~his~~ the wrongfully imprisoned 66
individual's rights under this section. Until the statute of 67
limitations provided in division (H) of this section expires and 68
unless the wrongfully imprisoned individual commences a civil 69
action under this section, the clerk of the court of claims shall 70
send a similar letter in a similar manner to ~~him~~ the wrongfully 71
imprisoned individual at least once each three months after the 72
sending of the first reminder. 73

(D) Notwithstanding any provisions of this chapter to the 74
contrary, a wrongfully imprisoned individual has and may file a 75
civil action against the state, in the court of claims, to recover 76
a sum of money as described in this section, because of ~~his~~ the 77
individual's wrongful imprisonment. The court of claims shall have 78
exclusive, original jurisdiction over such a civil action. The 79
civil action shall proceed, be heard, and be determined as 80
provided in sections 2743.01 to 2743.20 of the Revised Code, 81
except that if a provision of this section conflicts with a 82
provision in any of those sections, the provision in this section 83
controls. 84

(E)(1) In a civil action as described in division (D) of this section, the complainant may establish that ~~he~~ the claimant is a wrongfully imprisoned individual by submitting to the court of claims a certified copy of the judgment entry of the court of common pleas associated with ~~his~~ the claimant's conviction and sentencing, and a certified copy of the entry of the determination of a court of common pleas that ~~he~~ the claimant is a wrongfully imprisoned individual. No other evidence shall be required of the complainant to establish that ~~he~~ the claimant is a wrongfully imprisoned individual, and ~~he~~ the claimant shall be irrebuttably presumed to be a wrongfully imprisoned individual.

(2) In a civil action as described in division (D) of this section, upon presentation of requisite proof to the court, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

(a) The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred by the wrongfully imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining ~~his~~ the wrongfully imprisoned individual's discharge from confinement in the state ~~penal or reformatory~~ correctional institution;

(b) For each full year ~~that he was imprisoned~~ of imprisonment in the state correctional institution for the offense of which ~~he~~ the wrongfully imprisoned individual was found guilty, ~~twenty-five~~ forty thousand three hundred thirty dollars, and for each part of a year ~~that he was~~ of being so imprisoned, a pro-rated share of ~~twenty-five~~ forty thousand three hundred thirty dollars;

(c) Any loss of wages, salary, or other earned income that directly resulted from ~~his~~ the wrongfully imprisoned individual's arrest, prosecution, conviction, and wrongful imprisonment.

(F)(1) If the court of claims determines in a civil action as 117
described in division (D) of this section that the complainant is 118
a wrongfully imprisoned individual, it shall enter judgment for 119
the wrongfully imprisoned individual in the amount of the sum of 120
money to which ~~he~~ the wrongfully imprisoned individual is entitled 121
under division (E)(2) of this section. In determining that sum, 122
the court of claims shall not take into consideration any expenses 123
incurred by the state or any of its political subdivisions in 124
connection with the arrest, prosecution, and imprisonment of the 125
wrongfully imprisoned individual, including, but not limited to, 126
expenses for food, clothing, shelter, and medical services. 127

(2) If the wrongfully imprisoned individual was represented 128
in the civil action under this section by counsel of ~~his~~ the 129
wrongfully imprisoned individual's own choice, the court of claims 130
shall include in the judgment entry referred to in division (F)(1) 131
of this section an award for the reasonable attorney's fees of 132
that counsel. These fees shall be paid as provided in division (G) 133
of this section. 134

(3) The state consents to be sued by a wrongfully imprisoned 135
individual because ~~his~~ the imprisonment was wrongful, and to 136
liability on its part because of that fact, only as provided in 137
this section. However, this section does not affect any liability 138
of the state or of its employees to a wrongfully imprisoned 139
individual on a claim for relief that is not based on the fact of 140
~~his~~ the wrongful imprisonment, including, but not limited to, a 141
claim for relief that arises out of circumstances occurring during 142
~~his~~ the wrongfully imprisoned individual's confinement in the 143
state correctional institution. 144

(G) The clerk of the court of claims shall forward a 145
certified copy of a judgment under division (F) of this section to 146
the president of the controlling board. The board shall take all 147
actions necessary to cause the payment of the judgment out of the 148

emergency purposes special purpose account of the board. 149

(H) To be eligible to recover a sum of money as described in 150
this section because of ~~his~~ wrongful imprisonment, a wrongfully 151
imprisoned individual shall not have been, prior to September 24, 152
1986, the subject of an act of the general assembly that 153
authorized an award of compensation for ~~his~~ the wrongful 154
imprisonment or have been the subject of an action before the 155
former sundry claims board that resulted in an award of 156
compensation for ~~his~~ the wrongful imprisonment. Additionally, to 157
be eligible to so recover, the wrongfully imprisoned individual 158
shall commence a civil action under this section in the court of 159
claims no later than two years after the date of the entry of the 160
determination of a court of common pleas that ~~he~~ the individual is 161
a wrongfully imprisoned individual. 162

Section 2. That existing section 2743.48 of the Revised Code 163
is hereby repealed. 164

Section 3. Section 2743.48 of the Revised Code, as amended by 165
this act, applies to civil actions for wrongful imprisonment in 166
the Court of Claims commenced on or after the effective date of 167
this act, or commenced prior to and pending on the effective date 168
of this act. 169