

As Reported by the House Civil and Commercial Law Committee

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**SENATORS Coughlin, Brady, Mallory, Oelslager, Prentiss, Roberts,
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A B I L L

To amend section 2743.48 and to enact sections 117.52 1
and 2743.49 of the Revised Code to increase the 2
amount that a wrongfully imprisoned individual, in 3
an action brought in the Court of Claims, is 4
entitled to for each year of imprisonment, to 5
provide for cost of living adjustments of that 6
amount by the Auditor of State, and to allow the 7
wrongfully imprisoned individual to recover any 8
cost debts the wrongfully imprisoned individual 9
paid the Department of Rehabilitation and 10
Correction while in its custody or under its 11
supervision. 12

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

Section 1. That section 2743.48 be amended and sections 13
117.52 and 2743.49 of the Revised Code be enacted to read as 14
follows: 15

Sec. 117.52. The auditor of state shall make the adjustment, 16
as described in section 2743.49 of the Revised Code, of the amount 17
that a wrongfully imprisoned individual, in an action brought in 18

the court of claims pursuant to section 2743.48 of the Revised Code, may receive for each full year or part of a year of imprisonment and shall perform all of the functions relating to that adjustment as specified in section 2743.49 of the Revised Code.

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Sec. 2743.48. (A) As used in this section and section 2743.49 of the Revised Code, a "wrongfully imprisoned individual" means an individual who satisfies each of the following:

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(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.

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(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.

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(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.

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

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(5) Subsequent to ~~his~~ sentencing and during or subsequent to ~~his~~ imprisonment, an error in procedure resulted in the individual's release, or it was determined by a court of common

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pleas that the offense of which ~~he~~ the individual was found 49
guilty, including all lesser-included offenses, either was not 50
committed by ~~him~~ the individual or was not committed by any 51
person. 52

(B)(1) When a court of common pleas determines, on or after 53
September 24, 1986, that a person is a wrongfully imprisoned 54
individual, the court shall provide the person with a copy of this 55
section and orally inform ~~him~~ the person and ~~his~~ the person's 56
attorney of ~~his~~ the person's rights under this section to commence 57
a civil action against the state in the court of claims because of 58
~~his~~ the person's wrongful imprisonment and to be represented in 59
that civil action by counsel of ~~his~~ the person's own choice. 60

(2) The court described in division (B)(1) of this section 61
shall notify the clerk of the court of claims, in writing and 62
within seven days after the date of the entry of its determination 63
that the person is a wrongfully imprisoned individual, of the name 64
and proposed mailing address of the person and of the fact that 65
the person has the rights to commence a civil action and to have 66
legal representation as provided in this section. The clerk of the 67
court of claims shall maintain in ~~his~~ the clerk's office a list of 68
wrongfully imprisoned individuals for whom notices are received 69
under this section and shall create files in ~~his~~ the clerk's 70
office for each such individual. 71

(C)(1) In a civil action under this section, a wrongfully 72
imprisoned individual has the right to have counsel of ~~his~~ the 73
individual's own choice. 74

(2) If a wrongfully imprisoned individual who is the subject 75
of a court determination as described in division (B)(1) of this 76
section does not commence a civil action under this section within 77
six months after the entry of that determination, the clerk of the 78
court of claims shall send a letter to ~~him~~ the wrongfully 79
imprisoned individual, at the address set forth in the notice 80

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received from the court of common pleas pursuant to division 81
(B)(2) of this section or to any later address provided by the 82
wrongfully imprisoned individual, that reminds ~~him~~ the wrongfully 83
imprisoned individual of ~~his~~ the wrongfully imprisoned 84
individual's rights under this section. Until the statute of 85
limitations provided in division (H) of this section expires and 86
unless the wrongfully imprisoned individual commences a civil 87
action under this section, the clerk of the court of claims shall 88
send a similar letter in a similar manner to ~~him~~ the wrongfully 89
imprisoned individual at least once each three months after the 90
sending of the first reminder. 91

(D) Notwithstanding any provisions of this chapter to the 92
contrary, a wrongfully imprisoned individual has and may file a 93
civil action against the state, in the court of claims, to recover 94
a sum of money as described in this section, because of ~~his~~ the 95
individual's wrongful imprisonment. The court of claims shall have 96
exclusive, original jurisdiction over such a civil action. The 97
civil action shall proceed, be heard, and be determined as 98
provided in sections 2743.01 to 2743.20 of the Revised Code, 99
except that if a provision of this section conflicts with a 100
provision in any of those sections, the provision in this section 101
controls. 102

(E)(1) In a civil action as described in division (D) of this 103
section, the complainant may establish that ~~he~~ the claimant is a 104
wrongfully imprisoned individual by submitting to the court of 105
claims a certified copy of the judgment entry of the court of 106
common pleas associated with ~~his~~ the claimant's conviction and 107
sentencing, and a certified copy of the entry of the determination 108
of a court of common pleas that ~~he~~ the claimant is a wrongfully 109
imprisoned individual. No other evidence shall be required of the 110
complainant to establish that ~~he~~ the claimant is a wrongfully 111
imprisoned individual, and ~~he~~ the claimant shall be irrebuttably 112

presumed to be a wrongfully imprisoned individual. 113

(2) In a civil action as described in division (D) of this 114
section, upon presentation of requisite proof to the court, a 115
wrongfully imprisoned individual is entitled to receive a sum of 116
money that equals the total of each of the following amounts: 117

(a) The amount of any fine or court costs imposed and paid, 118
and the reasonable attorney's fees and other expenses incurred by 119
the wrongfully imprisoned individual in connection with all 120
associated criminal proceedings and appeals, and, if applicable, 121
in connection with obtaining ~~his~~ the wrongfully imprisoned 122
individual's discharge from confinement in the state ~~penal or~~ 123
~~reformatory~~ correctional institution; 124

(b) For each full year ~~that he was imprisoned~~ of imprisonment 125
in the state correctional institution for the offense of which ~~he~~ 126
the wrongfully imprisoned individual was found guilty, ~~twenty-five~~ 127
~~forty~~ thousand three hundred thirty dollars ~~or the adjusted amount~~ 128
determined by the auditor of state pursuant to section 2743.49 of 129
the Revised Code, and for each part of a year ~~that he was of being~~ 130
so imprisoned, a pro-rated share of ~~twenty-five~~ forty thousand 131
three hundred thirty dollars ~~or the adjusted amount determined by~~ 132
the auditor of state pursuant to section 2743.49 of the Revised 133
Code; 134

(c) Any loss of wages, salary, or other earned income that 135
directly resulted from ~~his~~ the wrongfully imprisoned individual's 136
arrest, prosecution, conviction, and wrongful imprisonment; 137

(d) The amount of the following cost debts the department of 138
rehabilitation and correction recovered from the wrongfully 139
imprisoned individual who was in custody of the department or 140
under the department's supervision: 141

(i) Any user fee or copayment for services at a detention 142
facility, including, but not limited to, a fee or copayment for 143

<u>sick call visits;</u>	144
<u>(ii) The cost of housing and feeding the wrongfully imprisoned individual in a detention facility;</u>	145
<u>(iii) The cost of supervision of the wrongfully imprisoned individual;</u>	148
<u>(iv) The cost of any ancillary services provided to the wrongfully imprisoned individual.</u>	150
(F)(1) If the court of claims determines in a civil action as described in division (D) of this section that the complainant is a wrongfully imprisoned individual, it shall enter judgment for the wrongfully imprisoned individual in the amount of the sum of money to which he <u>the wrongfully imprisoned individual</u> is entitled under division (E)(2) of this section. In determining that sum, the court of claims shall not take into consideration any expenses incurred by the state or any of its political subdivisions in connection with the arrest, prosecution, and imprisonment of the wrongfully imprisoned individual, including, but not limited to, expenses for food, clothing, shelter, and medical services.	151
(2) If the wrongfully imprisoned individual was represented in the civil action under this section by counsel of his <u>the wrongfully imprisoned individual's</u> own choice, the court of claims shall include in the judgment entry referred to in division (F)(1) of this section an award for the reasonable attorney's fees of that counsel. These fees shall be paid as provided in division (G) of this section.	152
(3) The state consents to be sued by a wrongfully imprisoned individual because his <u>the</u> imprisonment was wrongful, and to liability on its part because of that fact, only as provided in this section. However, this section does not affect any liability of the state or of its employees to a wrongfully imprisoned individual on a claim for relief that is not based on the fact of	153
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his the wrongful imprisonment, including, but not limited to, a 175
claim for relief that arises out of circumstances occurring during 176
his the wrongfully imprisoned individual's confinement in the 177
state correctional institution. 178

(G) The clerk of the court of claims shall forward a 179
certified copy of a judgment under division (F) of this section to 180
the president of the controlling board. The board shall take all 181
actions necessary to cause the payment of the judgment out of the 182
emergency purposes special purpose account of the board. 183

(H) To be eligible to recover a sum of money as described in 184
this section because of ~~his~~ wrongful imprisonment, a wrongfully 185
imprisoned individual shall not have been, prior to September 24, 186
1986, the subject of an act of the general assembly that 187
authorized an award of compensation for ~~his~~ the wrongful 188
imprisonment or have been the subject of an action before the 189
former sundry claims board that resulted in an award of 190
compensation for ~~his~~ the wrongful imprisonment. Additionally, to 191
be eligible to so recover, the wrongfully imprisoned individual 192
shall commence a civil action under this section in the court of 193
claims no later than two years after the date of the entry of the 194
determination of a court of common pleas that ~~he~~ the individual is 195
a wrongfully imprisoned individual. 196

Sec. 2743.49. (A)(1) In January of each odd-numbered year, 197
the auditor of state, in accordance with this division and 198
division (A)(2) of this section, shall adjust the actual dollar 199
figure specified in division (E)(2)(b) of section 2743.48 of the 200
Revised Code or the actual dollar amount determined pursuant to 201
this section. The adjustment shall be based on the yearly average 202
of the previous two years of the consumer price index for all 203
urban consumers or its successive equivalent, as determined by the 204
United States department of labor, bureau of labor statistics, or 205
its successor in responsibility, for all items, Series A. Using 206

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the yearly average for the immediately preceding even-numbered 207
year as the base year, the auditor of state shall compare the most 208
current average consumer price index with that determined in the 209
preceding odd-numbered year and shall determine the percentage 210
increase or decrease. The auditor of state shall multiply the 211
percentage increase or decrease by the actual dollar figure 212
specified in division (E)(2)(b) of section 2743.48 of the Revised 213
Code or the actual dollar figure determined for the previous 214
odd-numbered year under this section and shall add the product to 215
or subtract the product from its corresponding actual dollar 216
figure, as applicable, for the previous odd-numbered year. 217

(2) The auditor of state shall calculate the adjustment under 218
division (A)(1) of this section on or before the thirty-first day 219
of January of each odd-numbered year. The auditor of state shall 220
base the adjustment on the most current consumer price index that 221
is described in division (A)(1) of this section and that is in 222
effect as of the first day of January of each odd-numbered year. 223

(B)(1) The auditor of state shall certify the calculations 225
made under division (A) of this section on or before the 226
thirty-first day of January of each odd-numbered year. 227

(2) On or before the fifteenth day of February of each 228
odd-numbered year, the auditor of state shall prepare a report 229
setting forth the amount that a wrongfully imprisoned individual 230
is entitled to for each full year of imprisonment in the state 231
correctional institution for the offense of which the wrongfully 232
imprisoned individual was found guilty as provided in division 233
(E)(2)(b) of section 2743.49 of the Revised Code and as calculated 234
in accordance with this section. The report and all documents 235
relating to the calculations contained in the report are public 236
records. The report shall contain an indication of the period in 237
which the calculated amount applies, a summary of how the amount 238

was calculated, and a statement that the report and all related 239
documents are available for inspection and copying at the office 240
of the auditor of state. 241

(3) On or before the fifteenth day of February of each 242
odd-numbered year, the auditor of state shall transmit the report 243
to the general assembly and to the court of claims. 244

Section 2. That existing section 2743.48 of the Revised Code 246
is hereby repealed. 247

Section 3. Sections 117.52, 2743.48, and 2743.49 of the 248
Revised Code, as amended or enacted by this act, apply to civil 249
actions for wrongful imprisonment in the Court of Claims commenced 250
on or after the effective date of this act, or commenced prior to 251
and pending on the effective date of this act. 252