

HOUSE BILL 1086

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CF SB 890

By: **Chair, Judiciary Committee (By Request – Office of the Attorney General)**

Introduced and read first time: February 7, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Compensation for Individuals Erroneously Convicted – Alterations**

3 FOR the purpose of altering certain benefits that a certain individual who has been
4 erroneously convicted of a crime is entitled to receive; requiring the State to notify a
5 certain individual of certain information in writing under certain circumstances
6 when the State intends to reduce or prevent an award of compensation to the
7 individual; altering circumstances under which an individual may receive
8 compensation; repealing obsolete provisions of law relating to the filing of a certain
9 petition for compensation; and generally relating to compensation for individuals
10 who have been erroneously convicted of committing crimes.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 10–501
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2023 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – State Finance and Procurement**

19 10–501.

20 (a) (1) On receipt of an order by an administrative law judge granting a
21 petition under subsection (b) of this section, the Board of Public Works shall compensate
22 an individual erroneously convicted, sentenced, and confined under State law for a crime
23 the individual did not commit in an amount equal to the product of the total number of days
24 that the individual was wrongfully confined after the erroneous conviction multiplied by a
25 daily rate of the State's most recent annual median household income as published in the
26 American Community Survey of the U.S. Census Bureau in the year the order of eligibility

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



is issued under subsection (b) of this section and divided by 365 days to the nearest whole cent.

(2) In addition to the compensation awarded under paragraph (1) of this subsection, the administrative law judge issuing an order under subsection (b) of this section may direct the appropriate State agency or service provider to provide to the individual free of charge any of the following benefits:

(i) a State identification card and any other document necessary for the individual's health or welfare on the individual's release from confinement;

(ii) housing accommodations [available on the individual's release from confinement] for a period not exceeding 5 years **AFTER THE DATE THE ORDER OF ELIGIBILITY IS ISSUED UNDER SUBSECTION (B) OF THIS SECTION;**

(iii) education and training relevant to life skills, job and vocational training, or financial literacy for a period of time until the individual elects to no longer receive the education and training;

(iv) health care and dental care for at least 5 years after the [individual's release from confinement] **DATE THE ORDER OF ELIGIBILITY IS ISSUED UNDER SUBSECTION (B) OF THIS SECTION;**

(v) access to enrollment at and payment of tuition and fees for attending a public senior higher education institution, a regional higher education center, or the Baltimore City Community College for a period of enrollment not exceeding **[5] 8** years; and

(vi) reimbursement for court fines, fees, and restitution paid by the individual for the crime for which the individual was erroneously convicted, sentenced, and confined.

(3) (i) If an individual previously received a monetary award from a civil suit or entered into a settlement agreement with the State or a political subdivision of the State for an erroneous conviction, sentence, or confinement, the amount owed to the individual under this subsection shall be reduced by the amount of the monetary award or settlement that was paid to the individual less any amount paid for attorney's fees and costs for litigating the award or settlement.

(ii) 1. If, after receiving compensation under this subsection, an individual receives a monetary award from a civil suit or enters into a settlement agreement with the State or a political subdivision of the State for an erroneous conviction, sentence, or confinement, the individual shall reimburse the State the amount of money paid under this section less any amount paid for attorney's fees and costs for litigating the award or settlement.

2. Reimbursement required under subsubparagraph 1 of this subparagraph may not exceed the amount of the monetary award the individual received in the civil suit or settlement agreement.

3. The State may obtain a lien against the monetary award from a civil suit or settlement agreement to satisfy an obligation under subsubparagraph 1 of this subparagraph.

(4) [An individual may not receive compensation under this subsection for any period of confinement during which the individual was concurrently serving a sentence for a conviction of another offense for which the individual was lawfully convicted and confined.

(5) If an individual eligible for compensation and benefits under this subsection is deceased, the individual's estate has standing to be compensated under this subsection.

(b) (1) An administrative law judge shall issue an order that an individual is eligible for compensation and benefits from the State under subsection (a) of this section if:

(i) the individual has received from the Governor a full pardon stating that the individual's conviction has been shown conclusively to be in error; or

(ii) subject to paragraph (2) of this subsection, the administrative law judge finds that the individual has proven by clear and convincing evidence that:

1. the individual was convicted, sentenced, and subsequently confined for a felony;

2. the judgment of conviction for the felony was reversed or vacated and:

A. THE ORDER REVERSING OR VACATING THE JUDGMENT OF CONVICTION DID NOT ALLOW FOR RETRIAL;

B. the charges against the individual were dismissed; or

[B.] C. on retrial, the individual was found not guilty;

3. the individual did not commit the felony for which they were convicted, sentenced, and subsequently confined and was not an accessory or accomplice to the felony; and

4. subject to paragraph (2)(ii) of this subsection, the individual did not commit or suborn perjury, fabricate evidence, or by the individual's own conduct cause or bring about the conviction.

(2) (i) In determining the weight and admissibility of evidence presented by the parties, the administrative law judge may, in the interest of justice, give due consideration to the passage of time, death or unavailability of witnesses, the destruction of evidence, or any other factor.

(ii) For the purposes of paragraph (1)(ii)4 of this subsection, suborning perjury, fabricating evidence, or causing or bringing about a conviction does not include:

1. a confession or admission later determined to be false; or
2. a guilty plea.

(3) A request for an order of eligibility under this section shall be:

(i) filed with the Office of Administrative Hearings; and

(ii) captioned “In the Matter of the Wrongful Conviction of (Claimant)” or “(Claimant) v. Board of Public Works”.

(4) The following shall be parties to a proceeding under this subsection:

(i) the State’s Attorney of the county where the crime was committed, or the State’s Attorney’s designee; and

(ii) the State, represented by the Attorney General, or the Attorney General’s designee.

(c) (1) [Except as provided in paragraph (2) of this subsection, an] AN individual may file a petition for an order under subsection (b) of this section not later than 2 years after the date on which:

(i) the Governor issued a pardon described under subsection (b)(1)(i) of this section; or

(ii) the criminal charges against the individual were dismissed, AN **ORDER REVERSING OR VACATING THE JUDGMENT OF CONVICTION AND NOT ALLOWING FOR RETRIAL WAS ISSUED**, or the individual was found not guilty on retrial as described under subsection (b)(1)(ii) of this section.

[(2) An individual convicted, confined, and released from confinement before July 1, 2021, who has not previously received compensation under this section, may petition for an order under subsection (b) of this section not later than June 30, 2023.

(3) An individual who was awarded compensation under this section on or before July 1, 2005, may request an order for supplemental compensation in the amount authorized by this section on or before July 12, 2023.]

[(4)] (2) If an individual otherwise eligible for relief under this section is deceased, a personal representative or an executor of the individual's estate may file a petition for an order under subsection (b) of this section on the individual's behalf.

[(5)] (3) A petition filed under this section shall be served on:

(i) the State's Attorney in the county in which the conviction occurred, or the State's Attorney's designee; and

(ii) the Attorney General, or the Attorney General's designee.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN INDIVIDUAL MAY NOT RECEIVE COMPENSATION UNDER THIS SECTION FOR ANY PERIOD OF CONFINEMENT DURING WHICH THE INDIVIDUAL WAS CONCURRENTLY SERVING A SENTENCE FOR A CONVICTION OF ANOTHER OFFENSE FOR WHICH THE INDIVIDUAL WAS LAWFULLY CONVICTED AND CONFINED.

(II) THE STATE SHALL NOTIFY THE INDIVIDUAL IN WRITING AT LEAST 15 DAYS BEFORE A HEARING ON A PETITION UNDER THIS SECTION OF:

1. THE STATE'S INTENTION TO INTRODUCE EVIDENCE TO REDUCE OR PREVENT AN AWARD OF COMPENSATION UNDER THIS PARAGRAPH; AND

2. THE NUMBER OF DAYS THAT THE STATE CLAIMS THE INDIVIDUAL WAS INCARCERATED BUT NOT CONCURRENTLY SERVING A SENTENCE FOR A CONVICTION OF ANOTHER OFFENSE FOR WHICH THE INDIVIDUAL WAS LAWFULLY CONVICTED AND CONFINED.

[(6)] (5) The decision to grant or deny a petition under this section may be appealed by any party to the proceeding.

(d) (1) If an administrative law judge orders that an individual is eligible for compensation and benefits under this section, the order shall include:

(i) the monetary award owed to the individual under subsection (a)(1) of this section;

(ii) reasonable attorney's fees and expenses associated with the action brought under this section;

(iii) benefits to be awarded under subsection (a)(2) of this section; and

(iv) if the administrative law judge determines that it is in the interests of the individual, a recommendation for an expedited payment schedule.

(2) A copy of the order shall be delivered to:

(i) the Board of Public Works to make the payments ordered under paragraph (1)(i) and (ii) of this subsection; and

(ii) any State agency or service provider ordered to provide benefits under paragraph (1)(iii) of this subsection.

(e) The Board of Public Works shall pay the compensation ordered under subsection (d) of this section in:

(1) one initial payment equal to the annual amount of the State's most recent median household income to be paid within 60 days after receiving the order; and

(2) (i) after the initial payment under item (1) of this subsection, installments paid over a period not to exceed 6 fiscal years; or

(ii) in accordance with an expedited payment schedule recommended under subsection (d)(1)(iv) of this section.

(f) (1) This section does not prohibit an individual from contracting for services to:

(i) determine the individual's innocence;

(ii) obtain a pardon;

(iii) obtain the individual's release from confinement; or

(iv) obtain compensation under this section.

(2) (i) A person providing services under paragraph (1)(iv) of this subsection may not charge, demand, receive, or collect payment other than that allowed under subsection (d)(1)(ii) of this section.

(ii) An obligation incurred in violation of this paragraph is void.

(g) On or before December 31, 2022, and annually thereafter, the Board of Public Works shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on any compensation and services awarded under this section.

1 (h) The Office of Administrative Hearings, in consultation with the Board of
2 Public Works, shall adopt regulations to govern the procedures and practices in all cases
3 requesting compensation and benefits under this subtitle.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be applied
5 or interpreted to require dismissal of a petition for compensation for erroneous conviction
6 filed before the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2024.