

HOUSE BILL NO. 118

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KAWASAKI

Introduced: 2/13/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to compensation for wrongful conviction and imprisonment."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 44.29.020 is amended by adding a new subsection to read:

4 (d) The Department of Health and Social Services shall establish a reentry
5 services program to assist persons who have received compensation for wrongful
6 convictions under AS 44.77.018 to obtain mental health services, including services
7 for post-traumatic stress disorder.

8 * **Sec. 2.** AS 44.77.010(a) is amended to read:

9 (a) Except as provided in (d) of this section, every claim for reimbursement
10 for wrongful conviction and imprisonment, for money expended, or for
11 compensation for labor, materials, or supplies furnished, or services given to or for the
12 state, whether based on a contract or on a ratification, shall be promptly presented to
13 the appropriate administrative or executive officer for approval and payment.

14 * **Sec. 3.** AS 44.77 is amended by adding a new section to read:

15 **Sec. 44.77.018. Claims for wrongful conviction and imprisonment.** (a) To

1 obtain compensation for wrongful conviction and imprisonment, a person must file a
2 claim with the attorney general as provided in this section. The person filing a claim
3 must show by a preponderance of the evidence that the person was convicted of one or
4 more offenses, was sentenced to a term of imprisonment, served all or any part of the
5 sentence, and

6 (1) either

7 (A) the conviction on which the sentence was imposed was
8 vacated or reversed because the person was not guilty and

9 (i) the charges on which the conviction was based were
10 later dismissed; or

11 (ii) the person was retried and found not guilty; or

12 (B) the person was pardoned because of innocence and
13 wrongful conviction; and

14 (2) the person did not

15 (A) commit any of the crimes charged in the criminal action in
16 which the person was convicted;

17 (B) commit perjury, induce another person to commit perjury,
18 or fabricate evidence in a manner that caused the conviction; in this
19 subparagraph, a false confession or admission or a guilty plea to a crime the
20 person did not commit does not constitute cause for conviction.

21 (b) A person is not entitled to compensation under this section for a period of
22 imprisonment for which the person was serving a concurrent sentence for another
23 crime to which this section does not apply.

24 (c) A person who meets the requirements of this section is entitled to
25 compensation in the amount of \$50,000 multiplied by the number of years served in
26 prison, expressed as a fraction to reflect partial years, up to a maximum of \$2,000,000.

27 (d) A person who receives compensation under this section may not bring any
28 action involving the same subject matter, including an action involving the person's
29 arrest, conviction, or length of confinement, against the state or a municipal
30 government or an official or employee of the state or a municipal government.

31 (e) A claim under this section must be filed within two years after the

subsequent dismissal, not guilty verdict, or pardon under (a) of this section, except that the attorney general may authorize payment for a claim for wrongful imprisonment not filed within two years if the person filing the claim shows good cause for the delay.

(f) A person who meets the requirements of this section, in addition to the compensation under (c) of this section, is entitled to the following programs and services at no cost to the person:

(1) reentry services provided by the Department of Health and Social Services under AS 44.29.020;

(2) tuition and fees at any campus of the University of Alaska for so long as the person is a resident of the state, and tuition and fees for any child or stepchild of the person while the child is a resident of the state and is between 17 and 26 years of age;

(3) job training skills for at least three years through an appropriate state program;

(4) up to 10 years of state-funded health coverage that offers services equivalent to medical assistance services available under AS 47.07.030; and

(5) economic damages, including lost wages and attorney fees and costs incurred by the person to prove the person's innocence.

(g) Compensation awarded under this section is not subject to

(1) taxation by the state, except for any attorney fees awarded;

(2) offset by the state for expenses incurred by the state or a municipality to provide services to the person, including costs of the person's imprisonment and any medical services provided.

* **Sec. 4.** AS 44.77.040(c) is amended to read:

(c) If the claimant does not accept the decision of the Department of Administration, the claimant may obtain judicial review of the decision in accordance with AS 44.62.560 - 44.62.570. **Except for a claim for wrongful conviction and imprisonment, a** [A] claimant may also bring an action under AS 09.50.250 - 09.50.300 at any time after one year has elapsed since the presentation of the claim under AS 44.77.010, if no decision has been made by the department.

1 * **Sec. 5.** AS 44.77.070 is amended to read:

2 **Sec. 44.77.070. Applicability of AS 44.77.010 - 44.77.060. Except for a**
3 **claim for wrongful conviction and imprisonment,** AS 44.77.010 - 44.77.060 do not
4 apply to a department in the executive branch or to the legislative or judicial branches
5 if that department or branch has adopted a mandatory claims and appeal procedure.