

1 AN ACT relating to wrongful conviction compensation and making an
2 appropriation therefor.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) As used in this section, "claimant" means a person convicted and subsequently*
7 *imprisoned for one (1) or more crimes that the person did not commit.*

8 *(2) Notwithstanding any other provision of law, a claimant may bring an action in*
9 *the Circuit Court of the county in which the conviction occurred seeking*
10 *damages from the Commonwealth pursuant to this section.*

11 *(3) (a) In an action under this section, the claimant shall establish the following by*
12 *a preponderance of the evidence:*

13 *1. The claimant was convicted of a felony crime and subsequently*
14 *imprisoned;*

15 *2. a. The claimant's conviction was reversed or vacated and either the*
16 *charges were dismissed or, on retrial, the claimant was found to*
17 *be not guilty; or*

18 *b. The claimant was granted a full pardon by the Governor;*

19 *3. The claimant did not commit the crime or crimes for which the*
20 *claimant was convicted and was not an accessory or accomplice to the*
21 *acts that were the basis of the conviction; and*

22 *4. a. The claimant did not commit or suborn perjury, fabricate*
23 *evidence, or by the claimant's own conduct cause or bring about*
24 *the conviction.*

25 *b. Neither a confession later found to be false or a guilty plea shall*
26 *constitute committing or suborning perjury, fabricating*
27 *evidence, or causing or bringing about the conviction under this*

1 subparagraph.

2 (b) The court may give due consideration to difficulties of proof caused by the
3 passage of time, the death or unavailability of witnesses, the destruction of
4 evidence, or other factors not caused by the claimant or those acting on his
5 or her behalf.

6 (4) (a) An action filed pursuant to this section shall be brought in accordance with
7 the Kentucky Rules of Civil Procedure and within a period of two (2) years
8 after the:

9 1. Dismissal of the criminal charges against the claimant or a finding of
10 not guilty on retrial; or

11 2. Grant of a pardon to the claimant.

12 (b) A claimant convicted, imprisoned, and released from custody before the
13 effective date of this Act shall commence an action under this section not
14 later than two (2) years after the effective date of this Act.

15 (c) Any claim filed pursuant to this section shall be served on the Attorney
16 General in accordance with the Kentucky Rules of Civil Procedure.

17 (5) (a) Subject to any adjustment made under paragraph (d) of this subsection,
18 damages awarded under this section shall be:

19 1. Except as provided in paragraph (b) of this subsection:

20 a. Sixty-five thousand dollars (\$65,000) for each year of
21 imprisonment; or

22 b. Seventy-five thousand dollars (\$75,000) for each year of
23 imprisonment if the claimant was imprisoned on death row; and

24 2. Twenty-five thousand dollars (\$25,000) for each additional year served
25 on parole or postincarceration supervision or each additional year the
26 claimant was required to register as a sex offender under KRS 17.510,
27 whichever is greater.

1 **(b) A claimant shall not receive compensation for any period of incarceration**
2 **that the claimant was concurrently serving under a sentence for a**
3 **conviction of another crime that the claimant committed.**

4 **(c) In addition to the damages awarded pursuant to paragraph (a) of this**
5 **subsection, the claimant:**

6 **1. Shall be entitled to receive reasonable attorney fees and costs incurred**
7 **in the action brought under this section not to exceed a total of twenty-**
8 **five thousand dollars (\$25,000), unless a greater award is authorized**
9 **by the court upon a finding of good cause shown;**

10 **2. Shall be entitled to receive a tuition waiver for up to one hundred**
11 **twenty (120) credit hours at any public postsecondary educational**
12 **institution in Kentucky and any mandatory fees associated with**
13 **attendance at a public postsecondary educational institution in**
14 **Kentucky;**

15 **3. Shall be entitled to reimbursement for all restitution, assessments,**
16 **fees, court costs, and all other sums paid by the claimant as required**
17 **by pretrial orders, judgment of conviction, or sentence in any**
18 **proceeding that gave rise to the conviction, reversal, vacation of the**
19 **conviction, or from retrial following a reversal;**

20 **4. Shall be entitled to compensation for any reasonable reintegrative**
21 **services and mental and physical health care costs incurred by the**
22 **claimant for the time period between his or her release from**
23 **incarceration and the entry of judgment;**

24 **5. Shall be relieved of child support payments owed by the claimant that**
25 **became due, and interest on child support arrearages that accrued,**
26 **during the time the claimant was incarcerated. Notwithstanding the**
27 **provisions of KRS 413.090, the amount owed shall be awarded to the**

1 party designated in the child support order to receive payments; and
2 6. May be awarded other nonmonetary relief as sought in the complaint,
3 including but not limited to counseling, housing assistance, and
4 personal financial literacy assistance, as appropriate.

5 (d) 1. Beginning on July 1, 2025, and every year thereafter, the
6 Administrative Office of the Courts shall determine the percentage
7 change in the cost of living, based on the percentage increase in the
8 nonseasonally adjusted annual average Consumer Price Index for All
9 Urban Consumers (CPI-U), U.S. City Average, All Items, between the
10 two (2) most recent calendar years available, as published by the
11 United States Bureau of Labor Statistics.

12 2. The Administrative Office of the Courts shall adjust the amounts
13 under paragraph (a) of this subsection for the following calendar year
14 by multiplying the amounts applicable to the calendar year that the
15 adjustment is made by the percentage amount determined under this
16 subsection. The adjustment may not exceed three percent (3%) for any
17 year. The Administrative Office of the Courts shall round the adjusted
18 limitation amount to the nearest one hundred dollars (\$100), but the
19 unrounded amount shall be used to calculate the adjustments to the
20 amounts in subsequent calendar years. The adjusted amounts become
21 effective on July 1 of the year in which the adjustment is made, and
22 apply to all claims filed under this section on or after July 1 of that
23 year and before July 1 of the subsequent year.

24 (6) (a) If, at the time of entry of judgment under subsection (5) of this section, the
25 claimant has previously received a monetary award against the
26 Commonwealth or any political subdivision of the Commonwealth in a civil
27 action related to the wrongful conviction, or has entered into a settlement

1 agreement with the Commonwealth or any political subdivision of the
2 Commonwealth related to the wrongful conviction, the amount of the award
3 in the action or the amount received in settlement, less any sums paid to
4 attorneys or for costs in litigating the previous civil action or in obtaining
5 the settlement, shall be deducted from the sum of money that the claimant is
6 entitled to receive under this section. The court shall include in the
7 judgment an offset to the Commonwealth of any amount deducted pursuant
8 to this subsection.

9 (b) If there has been no previous award or settlement under paragraph (a) of
10 this subsection and if, after the time of the entry of judgment referred to in
11 subsection (5) of this section, the claimant receives a monetary award
12 against the Commonwealth or any political subdivision of the
13 Commonwealth in a civil action related to the wrongful conviction, or
14 enters into a settlement agreement with the Commonwealth or any political
15 subdivision of the Commonwealth related to the wrongful conviction, the
16 claimant shall reimburse the Commonwealth for the sum of money paid
17 under the judgment under subsection (5) of this section, less any sums paid
18 to attorneys or for costs in litigating the subsequent civil action or obtaining
19 the settlement. Any reimbursement required under this subsection shall not
20 exceed the amount of the monetary award the claimant receives for
21 damages in the civil action or the amount received in the settlement.

22 (7) If the court finds that the claimant is entitled to a judgment under this section,
23 the court shall issue a certificate of innocence stating that the claimant was
24 innocent of all crimes of which the claimant was convicted. The court shall send
25 a certified copy of the certificate of innocence and the entry of judgment to the
26 secretary of the Finance and Administration Cabinet for payment pursuant to
27 subsection (5) of this section.

1 (8) Upon issuance of a certificate of innocence, the court shall order the:

2 (a) Associated convictions and arrest records sealed and expunged from all
3 applicable state and federal systems. The court shall order the records be
4 sealed regardless of whether the claimant has prior criminal convictions;
5 and

6 (b) Expungement and destruction of the associated biological samples
7 authorized by and given to the Kentucky State Police in accordance with
8 KRS 17.175. Nothing in this subsection shall require the Kentucky State
9 Police to expunge and destroy any samples or profile records associated
10 with the claimant that are related to any offense other than the offense that
11 the court has issued a certificate of innocence.

12 (9) The decision of the court in subsection (7) of this section shall not have a res
13 judicata effect on any other proceedings.

14 (10) Nothing in this section shall prohibit the Department of Corrections from
15 providing reentry services to a claimant that are provided to other persons,
16 including but not limited to financial assistance, housing assistance, mentoring,
17 and counseling. Services shall be provided while an action under this section is
18 pending and after any judgment is entered, as appropriate for the claimant.

19 (11) Upon entry of any final judgment in the Circuit Court, the decision may be
20 appealed directly to the Supreme Court.

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) There is hereby established in the State Treasury a trust and agency account to be
24 known as the wrongful conviction compensation fund. The fund shall consist of
25 moneys received from state appropriations, gifts, grants, and federal funds.

26 (2) The fund shall be administered by the Finance and Administration Cabinet.

27 (3) Amounts deposited in the fund shall be used to compensate individuals who have

1 been wrongfully convicted and are entitled to compensation under Section 1 of
2 this Act and for no other purpose.

3 (4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal
4 year shall not lapse but shall be carried forward into the next fiscal year.

5 (5) Any interest earnings of the fund shall become a part of the fund and shall not
6 lapse.

7 (6) Moneys deposited in the fund are hereby appropriated for the purposes set forth
8 in this section and shall not be appropriated or transferred by the General
9 Assembly for any other purposes.

10 (7) In the event the amount in the wrongful conviction compensation fund is
11 insufficient to compensate eligible individuals who have been wrongfully
12 convicted, the unpaid claims shall be deemed a necessary government expense
13 and shall be paid from the general fund surplus account under KRS 48.700 or the
14 budget reserve trust fund under KRS 48.705.