

1 AN ACT relating to wrongful conviction compensation.

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

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

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

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

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

12 *1. The claimant was convicted of a felony crime in the Commonwealth*
13 *and subsequently imprisoned in the Commonwealth;*

14 *2. a. The claimant's conviction was reversed or vacated, and either*
15 *the charges were dismissed or on retrial the court entered a*
16 *judgment of not guilty; or*

17 *b. The claimant was granted a pardon by the Governor; and*

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

21 *(b) The court may give due consideration to difficulties of proof caused by*
22 *circumstances including but not limited to the passage of time, the death or*
23 *unavailability of witnesses, or the destruction of evidence.*

24 *(4) (a) An action filed under to this section shall be brought in accordance with the*
25 *Kentucky Rules of Civil Procedure and within a period of two (2) years*
26 *after:*

27 *1. a. The claimant's conviction was reversed or vacated and the*

1 criminal charges against the claimant were dismissed;
2 b. The court entered a judgment of not guilty on retrial; or
3 c. The appeals process has been exhausted;
4 whichever is later; or

5 2. The grant of a pardon to the claimant.

6 (b) An action filed under this section by a claimant who has been convicted,
7 imprisoned, and released from Department of Corrections custody before
8 the effective date of this Act shall be brought no later than two (2) years
9 after the effective date of this Act.

10 (c) An action filed under this section shall be served on the Attorney General
11 and the Commonwealth attorney in the county where the conviction
12 occurred in accordance with the Kentucky Rules of Civil Procedure.

13 (5) (a) Subject to any adjustment made under paragraph (e) of this subsection,
14 damages awarded under this section shall be equal to:

15 1. Except as provided in paragraph (c) of this subsection:

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

18 b. Seventy-five thousand dollars (\$75,000) for each year of
19 imprisonment if the claimant was imprisoned with a death
20 sentence; and

21 2. Thirty-two thousand five hundred dollars (\$32,500) for each
22 additional year:

23 a. Served on parole or postincarceration supervision; or

24 b. The claimant was required to register as a sex offender under
25 KRS 17.510;

26 whichever is greater.

27 (b) Amounts awarded under paragraph (a) of this subsection shall be:

- 1 1. Determined pro rata to the number of days the claimant spent
2 imprisoned or under supervision, or was required to register as a sex
3 offender under KRS 17.510; and
- 4 2. Issued as twenty-four (24) payments per year, to be made twice a
5 month, over a period of three (3) years.
- 6 (c) A claimant shall not receive compensation for any period of incarceration
7 that the claimant was concurrently serving under a sentence for a
8 conviction of another felony crime that the claimant committed.
- 9 (d) In addition to damages awarded pursuant to paragraph (a) of this
10 subsection, the claimant:
- 11 1. Shall be entitled to receive reasonable attorney's fees and costs
12 incurred in the action brought under this section not to exceed a total
13 of twenty-five thousand dollars (\$25,000), unless a greater award is
14 authorized by the court upon a finding of good cause shown;
- 15 2. Shall be entitled to receive a tuition waiver for up to one hundred
16 twenty (120) credit hours, and waiver of any mandatory fees
17 associated with attendance, at any public postsecondary educational
18 institution in Kentucky;
- 19 3. Shall be entitled to reimbursement for all restitution, assessments,
20 fees, court costs, and all other sums paid by the claimant as required
21 by pretrial orders, judgment of conviction, or sentence in any
22 proceeding that gave rise to the conviction, reversal, vacation of the
23 conviction, or from retrial following a reversal;
- 24 4. Shall be entitled to compensation for any reasonable reintegrative
25 services and mental and physical health care costs incurred by the
26 claimant for the time period between his or her release from
27 incarceration and the entry of judgment under this section not to

1 exceed twenty-five thousand dollars (\$25,000), unless a greater award
2 is authorized by the court upon a finding of good cause shown;

3 5. Shall be relieved of:

4 a. Child support payments owed by the claimant that became due,
5 and interest on child support arrearages that accrued, during the
6 time the claimant was incarcerated; and

7 b. Any payments owed by the claimant under any order issued
8 under KRS 403.211.

9 Notwithstanding the provisions of KRS 413.090, the amounts owed
10 under subdivisions a. and b. of this subparagraph shall be awarded to
11 the party designated in the applicable order to receive payments;

12 6. Shall be entitled to reimbursement for housing costs incurred by the
13 claimant for the time period between his or her release from
14 incarceration and entry of judgment under this section; and

15 7. May be awarded other nonmonetary relief as sought in the complaint,
16 including but not limited to personal financial literacy assistance.

17 (e) 1. Beginning July 1, 2026, and every year thereafter, the Finance and
18 Administration Cabinet shall determine the percentage change in the
19 cost of living, based on the percent increase in the nonseasonally
20 adjusted annual average Consumer Price Index for All Urban
21 Consumers, U.S. City Average, All Items, between the two (2) most
22 recent calendar years available, as published by the United States
23 Bureau of Labor Statistics.

24 2. The Finance and Administration Cabinet shall adjust the amounts
25 under paragraph (a) of this subsection for the following calendar year
26 by multiplying the amounts applicable to the calendar year that the
27 adjustment is made by the percentage amount determined under this

1 subsection. The adjustment shall not exceed three percent (3%) for
2 any year. The Finance and Administration Cabinet shall round the
3 adjusted limitation amount to the nearest one hundred dollars (\$100),
4 but the unrounded amount shall be used to calculate the adjustments
5 to the amounts in subsequent calendar years.

6 3. The Finance and Administration Cabinet shall inform the
7 Administrative Office of the Courts of any adjustment made under this
8 paragraph as soon as practicable.

9 4. The adjusted amounts become effective on July 1 of the year in which
10 the adjustment is made, and apply to all claims filed under this section
11 on or after that date and before July 1 of the subsequent year.

12 (6) (a) If, at the time of entry of a judgment awarding damages under subsection
13 (5) of this section, the claimant has previously received a monetary award
14 against the Commonwealth or any political subdivision of the
15 Commonwealth in another civil action related to the wrongful conviction, or
16 has entered into a settlement agreement with the Commonwealth or any
17 political subdivision of the Commonwealth related to the wrongful
18 conviction, the amount of the award in the previous civil action or the
19 amount received in settlement, less any sums paid to attorneys or for costs
20 in litigating the previous civil action or in obtaining the settlement, shall be
21 deducted from the sum of money that the claimant is entitled to receive
22 under this section. The court shall include in the judgment an offset to the
23 Commonwealth of any amount deducted pursuant to this subsection.

24 (b) If there has been no previous award or settlement under paragraph (a) of
25 this subsection and if, after the time of the entry of a judgment awarding
26 damages under subsection (5) of this section, the claimant receives a
27 monetary award against the Commonwealth or any political subdivision of

1 the Commonwealth in a civil action related to the wrongful conviction, or
2 enters into a settlement agreement with the Commonwealth or any political
3 subdivision of the Commonwealth related to the wrongful conviction, the
4 claimant shall reimburse the Commonwealth for the sum of money paid
5 under subsection (5) of this section, less any sums paid to attorneys or for
6 costs in litigating the subsequent civil action or obtaining the settlement.
7 Any reimbursement required under this subsection shall not exceed the
8 amount of the monetary award the claimant receives for damages in the
9 civil action or the amount received in the settlement.

10 (7) If the court finds that the claimant is entitled to a judgment under subsection (5)
11 of this section, the court shall issue a certificate of innocence stating that the
12 claimant was innocent of all crimes of which the claimant was convicted. The
13 court shall send a certified copy of the certificate of innocence and the entry of
14 judgment to the secretary of the Finance and Administration Cabinet for payment
15 in accordance with subsection (5) of this section.

16 (8) Upon issuance of a certificate of innocence and motion by the claimant, the court
17 shall order the:

18 (a) Associated convictions and arrest records sealed and expunged from all
19 applicable state and federal systems regardless of whether the claimant has
20 prior criminal convictions; and

21 (b) Expungement and destruction of the associated biological samples
22 authorized by and given to the Department of Kentucky State Police in
23 accordance with KRS 17.175. Nothing in this subsection shall require the
24 Department of Kentucky State Police to expunge and destroy any samples or
25 profile records associated with the claimant that are related to any offense
26 other than the offense for which the court has issued a certificate of
27 innocence.

1 (9) Upon request by the claimant, the Department of Corrections shall provide
2 reentry services to a claimant that are provided to other persons, including but
3 not limited to financial assistance, housing assistance, mentoring, and
4 counseling. Services shall be provided while an action under this section is
5 pending and after any judgment is entered, as appropriate for the claimant.

6 (10) Upon entry of any final judgment in the Circuit Court in an action under this
7 section, the judgment may be appealed directly to the Kentucky Supreme Court.

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

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

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

14 (3) Amounts deposited in the fund shall be used to compensate individuals who have
15 been wrongfully convicted and are entitled to compensation under Section 1 of
16 this Act and for no other purpose.

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

19 (5) In the event the amount in the wrongful conviction compensation fund is
20 insufficient to compensate eligible individuals who have been wrongfully
21 convicted and are entitled to compensation under Section 1 of this Act, the
22 unpaid claims shall be deemed a necessary government expense and shall be paid
23 from the general fund surplus account under KRS 48.700 or the budget reserve
24 trust fund account under KRS 48.705.