

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 by the Commonwealth*
13 *and subsequently incarcerated;*

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 outside the control of the claimant including but not limited*
23 *to the passage of time, the death or unavailability of witnesses, or the*
24 *destruction of evidence.*

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

- 1 1. a. The claimant's conviction was reversed or vacated and the
- 2 criminal charges against the claimant were dismissed;
- 3 b. The court entered a judgment of not guilty on retrial; or
- 4 c. The appeals process has been exhausted;
- 5 whichever is later; or
- 6 2. The grant of a pardon to the claimant.

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

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

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

- 16 1. Except as provided in paragraph (c) of this subsection:
- 17 a. Sixty-five thousand dollars (\$65,000) for each year of
- 18 imprisonment; or
- 19 b. Seventy-five thousand dollars (\$75,000) for each year of
- 20 imprisonment if the claimant was imprisoned with a death
- 21 sentence; and

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

- 24 a. Served on parole or postincarceration supervision; or
- 25 b. The claimant registered as a sex offender under KRS 17.510;
- 26 whichever is greater.

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

1 1. Determined on a pro rata basis to the number of days the claimant
2 spent imprisoned or under supervision, or registered as a sex offender
3 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:

7 1. Period of incarceration that the claimant was concurrently serving
8 under a sentence; and

9 2. Period of time that the claimant was concurrently registered as a sex
10 offender under KRS 17.510;

11 for a conviction of another felony crime that the claimant committed.

12 (d) In addition to damages awarded pursuant to paragraph (a) of this
13 subsection, the claimant shall be entitled to:

14 1. Receive reasonable attorney's fees and costs incurred in the action
15 brought under this section not to exceed a total of twenty-five
16 thousand dollars (\$25,000), unless a greater award is authorized by
17 the court upon a finding of good cause shown, not to exceed the public
18 contract hourly rate for attorney's fees;

19 2. Receive a tuition waiver for up to one hundred twenty (120) credit
20 hours, and waiver of any mandatory fees associated with attendance,
21 at any public postsecondary educational institution in Kentucky;

22 3. Reimbursement for all restitution, assessments, fees, court costs, and
23 all other sums paid by the claimant, whether arising from the charge
24 that is the subject of an action under this section, as required by
25 pretrial orders, judgment of conviction, or sentence in any proceeding
26 that gave rise to the conviction, or arising from proceedings related to
27 the reversal or vacation of the conviction, or retrial following a

1 reversal; and

2 4. Satisfaction of:

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

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

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

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

18 2. The Finance and Administration Cabinet shall adjust the amounts
19 under paragraph (a) of this subsection for the following calendar year
20 by multiplying the amounts applicable to the calendar year that the
21 adjustment is made by the percentage amount determined under this
22 subsection. The adjustment shall not exceed three percent (3%) for
23 any year. The Finance and Administration Cabinet shall round the
24 adjusted limitation amount to the nearest one hundred dollars (\$100),
25 but the unrounded amount shall be used to calculate the adjustments
26 to the amounts in subsequent calendar years.

27 3. The Finance and Administration Cabinet shall inform the

1 Administrative Office of the Courts of any adjustment made under this
2 paragraph as soon as practicable.

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

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

18 (b) If there has been no previous award or settlement under paragraph (a) of
19 this subsection and if, after the time of the entry of a judgment awarding
20 damages under subsection (5) of this section, the claimant receives a
21 monetary award against the Commonwealth or any political subdivision of
22 the Commonwealth in a civil action related to the wrongful conviction, or
23 enters into a settlement agreement with the Commonwealth or any political
24 subdivision of the Commonwealth related to the wrongful conviction, the
25 claimant shall reimburse the Commonwealth for the sum of money paid
26 under subsection (5) of this section, less any sums paid to attorneys or for
27 costs in litigating the subsequent civil action or obtaining the settlement.

1 Any reimbursement required under this subsection shall not exceed the
2 amount of the monetary award the claimant receives for damages in the
3 civil action or the amount received in the settlement.

4 (7) Upon entry of judgment and motion by the claimant, the court shall order the:

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

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

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

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

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

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

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

- 1 (3) Amounts deposited in the fund shall be used to compensate individuals who have
2 been wrongfully convicted and are entitled to compensation under Section 1 of
3 this Act and for no other purpose.
- 4 (4) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal
5 year shall not lapse but shall be carried forward into the next fiscal year.
- 6 (5) In the event the amount in the wrongful conviction compensation fund is
7 insufficient to compensate eligible individuals who have been wrongfully
8 convicted and are entitled to compensation under Section 1 of this Act, the
9 unpaid claims shall be deemed a necessary government expense and shall be paid
10 from the general fund surplus account under KRS 48.700 or the budget reserve
11 trust fund account under KRS 48.705.
- 12 ➔Section 3. This Act takes effect July 1, 2026.