

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2024 REGULAR SESSION**

MEASURE

2024 BR NUMBER 63

HOUSE BILL NUMBER 178/HCS1

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

SPONSOR Representative Jason Nemes

FISCAL SUMMARY

STATE FISCAL IMPACT: YES NO UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY: ACTUARIAL ANALYSIS
 LOCAL MANDATE CORRECTIONS IMPACT HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: Finance & Administration Cabinet; Appropriations Not Otherwise Classified

FUND(S) IMPACTED: GENERAL ROAD FEDERAL RESTRICTED Wrongful Conviction Compensation Fund

FISCAL ESTIMATES	2023-2024	2024-2025	2025-2026	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES				
EXPENDITURES		Indeterminable	Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)	(Indeterminable)

() indicates a decrease/negative

PURPOSE OF MEASURE: The measure establishes the requirements and process by which a person wrongfully convicted and imprisoned for a felony crime may bring a civil action and claim damages from the Commonwealth; prescribes the set of damages that may be awarded in a successful claim; and establishes the wrongful conviction compensation fund, administered by the Finance and Administration Cabinet, from which damages awarded are to be paid.

FISCAL EXPLANATION: The fiscal impact of the measure is indeterminable as it is not possible to know how many claimants might pursue a claim and be awarded damages in the future.

The actual costs of any potential future award for damages are dependent upon the number of years the claimant was incarcerated, costs and fees associated with the proceedings, future cost increases related to the Consumer Price Index (CPI), and tuition and fees at public postsecondary institutions and other damages that may be awarded by the court. The Department of Public Advocacy has indicated that there is unlikely to be a significant number of cases successfully

pursuing these claims. However, the scale of prescribed damages make the costs of even a single successful claim potentially significant. Damages prescribed in the measure are as follows:

- \$65,000 for each year of imprisonment, subject to annual adjustment by the CPI not to exceed 3%.
- \$75,000 for each year of imprisonment on death row, subject to annual adjustment by the CPI not to exceed 3%.
- \$25,000 for each additional year of parole, postincarceration supervision or as a registered sex offender, subject to annual adjustment by the CPI not to exceed 3%.
- Attorney fees and costs not to exceed \$25,000 unless authorized by the court in a greater amount.
- A tuition and fee waiver for 120 credit hours at a Kentucky public postsecondary educational institution.
- Reimbursement for restitution, assessments, fees, and court costs required by proceedings leading to the conviction, reversal, vacation of conviction, or retrial.
- Compensation for reintegrative services and health care costs incurred between release and entry of judgment.
- Relief from child support owed during the time of incarceration.
- Other nonmonetary relief may be awarded, including but not limited to counseling, housing assistance, and financial literacy assistance as determined by the court.

DATA SOURCE(S): LRC Staff; Department of Public Advocacy; Administrative Office of the Courts

PREPARER: Perry Papka NOTE NUMBER: 134 REVIEW: JB DATE: 3/11/2024