
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1274 Session of
2015

INTRODUCED BY GREENLEAF, COSTA, WHITE, RAFFERTY, YUDICHAK AND
SCHWANK, MAY 25, 2016

REFERRED TO JUDICIARY, MAY 25, 2016

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in matters affecting
3 government units, further providing for exceptions to
4 sovereign immunity and providing for claims for wrongful
5 conviction and imprisonment.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 8522(b) of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended by adding a paragraph to read:

10 § 8522. Exceptions to sovereign immunity.

11 * * *

12 (b) Acts which may impose liability.--The following acts by
13 a Commonwealth party may result in the imposition of liability
14 on the Commonwealth and the defense of sovereign immunity shall
15 not be raised to claims for damages caused by:

16 * * *

17 (10) Wrongful conviction and imprisonment.--Wrongful
18 conviction and imprisonment for which claims may be brought
19 under Subchapter D (relating to claims for wrongful

1 conviction and imprisonment).

2 Section 2. Chapter 85 of Title 42 is amended by adding a
3 subchapter to read:

4 SUBCHAPTER D

5 CLAIMS FOR WRONGFUL CONVICTION AND IMPRISONMENT

6 Sec.

7 8581. Eligibility.

8 8582. Statement of claim and basis of award.

9 8583. Commonwealth Court.

10 8584. Presentation of claim.

11 8585. Damages.

12 8586. Report and order.

13 8587. Notice.

14 8588. Statute of limitations.

15 § 8581. Eligibility.

16 Any person convicted and subsequently imprisoned for one or
17 more crimes that the person did not commit and who has been
18 released from prison and is not subject to retrial, or the heirs
19 of such person if the person is deceased, may present a claim
20 for damages against the Commonwealth. Other than credit for time
21 served, a claimant is not entitled to compensation under this
22 subchapter for any portion of a sentence spent incarcerated
23 during which the claimant was also serving a consecutive or
24 concurrent sentence for another crime to which this subchapter
25 does not apply. The acceptance by the claimant of any judicial
26 award, compromise or settlement shall be in writing and shall,
27 except when procured by fraud, be final and conclusive on the
28 claimant and completely bar any further action by the claimant
29 against the Commonwealth for the same subject matter.

30 § 8582. Statement of claim and basis of award.

1 (a) Evidence of claim.--To present a claim for wrongful
2 conviction and imprisonment, the claimant must establish that:

3 (1) The claimant has been convicted of one or more
4 crimes and subsequently sentenced to a term of imprisonment
5 and has served all or any part of the sentence.

6 (2) The claimant's actual innocence has been established
7 by:

8 (i) being pardoned by the Governor for the crime or
9 crimes for which the claimant was sentenced, and which
10 are the basis for the claim, on the grounds that the
11 crime or crimes were either not committed at all or, if
12 committed, were not committed by the defendant;

13 (ii) having the judgment of conviction of the
14 claimant reversed or vacated and the accusatory
15 instrument dismissed if the judgment of conviction was
16 reversed or vacated or the accusatory instrument was
17 dismissed on grounds consistent with innocence; or

18 (iii) if a new trial was ordered, either being found
19 not guilty at the new trial or not being retried and the
20 accusatory instrument dismissed.

21 (b) Basis of award.--To obtain a judgment in the claimant's
22 favor, the claimant must demonstrate that:

23 (1) The claimant was convicted of one or more crimes and
24 subsequently sentenced to a term of imprisonment and has
25 served all or any part of the sentence.

26 (2) By clear and convincing evidence the claimant's
27 actual innocence has been established under subsection (a)
28 (2).

29 § 8583. Commonwealth Court.

30 Proceedings before the court shall be governed by rules

1 established by the court, which shall emphasize, to the greatest
2 extent possible, informality of proceedings. No claimant shall
3 be required to be represented or accompanied by an attorney.

4 § 8584. Presentation of claim.

5 All claims of wrongful conviction and imprisonment shall be
6 presented to and heard by Commonwealth Court. Upon presentation
7 of a claim under section 8582 (relating to statement of claim
8 and basis of award), the court shall fix a time and place to
9 hear the claim. At least 15 days prior to the time fixed for the
10 hearing, the court shall mail notice thereof to the claimant and
11 to the district attorney in the district where the claimant was
12 prosecuted for the crimes which serve as the basis for this
13 claim. The district attorney may offer evidence and argue in
14 opposition to the claim for damages. If the claimant was
15 prosecuted by the Office of Attorney General, that office,
16 rather than the district attorney, must be notified that it may
17 oppose the claim under this section.

18 § 8585. Damages.

19 If Commonwealth Court finds that the claimant was wrongfully
20 convicted and imprisoned, it may award damages as follows:

21 (1) A minimum of \$50,000 for each year of incarceration,
22 as adjusted annually to account for inflation from the
23 effective date of this section, and prorated for partial
24 years served.

25 (2) In a lump sum or as an annuity as chosen by the
26 claimant.

27 (3) Compensation for any reasonable reintegrative
28 services and mental and physical health care costs incurred
29 by the claimant for the time period between the claimant's
30 release from incarceration and the date of the claimant's

1 award.

2 (4) Reasonable attorney fees calculated at 10% of the
3 damage award plus expenses. Exclusive of expenses, these fees
4 may not exceed \$75,000, as adjusted annually to account for
5 inflation from the effective date of this section, unless the
6 court approves an additional amount for good cause. These
7 fees may not be deducted from the compensation due the
8 claimant nor may the claimant's counsel receive additional
9 fees from the client for this matter.

10 (5) Compensation to those entitled to child support
11 payments owed by the claimant that became due, and interest
12 on child support arrearages that accrued during the time the
13 claimant served in prison but were not paid. Such
14 compensation is to be provided out of the total cash award to
15 the claimant under paragraph (1).

16 (6) In any case for which compensation is authorized by
17 this subchapter, the payment of compensation may be:

18 (i) to or for the benefit of the claimant; or

19 (ii) in the case of death of the claimant, to or for
20 the benefit of any one or more of the heirs at law of the
21 claimant who at the time of the claimant's demise were
22 dependent upon the claimant for support.

23 (7) To decide damages, Commonwealth Court shall consider
24 all circumstances surrounding the claim, including, but not
25 limited to, the length of the claimant's wrongful
26 incarceration, any injuries the claimant sustained while
27 incarcerated, any other need for financial aid and any other
28 relevant matter. Insofar as practical, Commonwealth Court
29 shall formulate standards for uniform application in
30 recommending compensation.

1 (8) The damage award is not subject to any cap
2 applicable to private parties in civil lawsuits.

3 (9) The damage award may not be offset by any expenses
4 incurred by the Commonwealth or any political subdivision of
5 the Commonwealth, including, but not limited to, expenses
6 incurred to secure the claimant's custody or to feed, clothe
7 or provide medical services for the claimant, nor may the
8 court offset the value of any services or reduction in fees
9 for services or the value thereof to be provided to the
10 claimant that may be awarded to the claimant under this
11 section.

12 (10) The award of damages shall include reimbursement
13 for any statutorily mandated and court-assessed costs, fines,
14 restitution and fees to the extent that they have been
15 collected.

16 (11) A decision of Commonwealth Court on behalf of the
17 claimant shall result in the automatic expungement of the
18 criminal history record of the claimant as it relates to the
19 crimes that form the basis of this claim. As part of its
20 decision, the court shall specifically direct the
21 Pennsylvania State Police and the prosecuting district
22 attorney of the original crimes that form the basis of this
23 claim to expunge the record consistent with this paragraph.
24 Accordingly, the court shall forward a copy of its decision
25 to the Pennsylvania State Police and to the prosecuting
26 district attorney.

27 (12) The damage award is not subject to any Commonwealth
28 taxes.

29 § 8586. Report and order.

30 Commonwealth Court shall issue a ruling and order and provide

1 the State Treasurer a statement of the total compensation due
2 and owing to the claimant from the Commonwealth.
3 § 8587. Notice.

4 (a) Court.--A court granting judicial relief as described in
5 section 8582(a) (relating to statement of claim and basis of
6 award) shall provide a copy of this subchapter to the individual
7 seeking such relief at the time the court determines that the
8 claimant's claim is likely to succeed. The individual shall be
9 required to acknowledge receipt of a copy of this subchapter in
10 writing on a form established by the Supreme Court. The
11 acknowledgment shall be entered on the docket by the court and
12 shall be admissible in any proceeding filed by a claimant under
13 this subchapter.

14 (b) Board of Pardons.--Upon the issuance of a full pardon on
15 or after the effective date of this subchapter, the Board of
16 Pardons shall provide a copy of this subchapter to an individual
17 when pardoned as described in section 8582(a). The individual
18 shall be required to acknowledge receipt of a copy of this
19 subchapter in writing on a form established by the board, which
20 shall be retained on file by the board as part of its official
21 records and shall be admissible in any proceeding filed by a
22 claimant under this subchapter.

23 (c) Failure to provide notice.--In the event a claimant
24 granted judicial relief or a full pardon on or after the
25 effective date of this subchapter shows the claimant did not
26 properly receive a copy of the information required by this
27 section, the claimant shall receive a one-year extension on the
28 two-year time limit provided in section 8588 (relating to
29 statute of limitations).

30 (d) Notice by Supreme Court.--The Supreme Court shall make

1 reasonable attempts to notify all persons who were granted
2 judicial relief as described in section 8582(a), prior to the
3 enactment of this subchapter, of their rights under this
4 subchapter.

5 § 8588. Statute of limitations.

6 An action for compensation brought by a wrongfully convicted
7 person under this subchapter shall be commenced within two years
8 after either the grant of a pardon or the grant of judicial
9 relief and satisfaction of other conditions described in section
10 8582 (relating to statement of claim and basis of award). Any
11 action by the Commonwealth challenging or appealing the grant of
12 judicial relief tolls the two-year period. Persons convicted,
13 incarcerated and released from custody prior to the effective
14 date of this subchapter shall commence an action under this
15 subchapter within five years of the effective date.

16 Section 3. This act shall take effect in 180 days.