

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 2930 Session of  
2022

---

INTRODUCED BY RABB, LEE, HOHENSTEIN, FRANKEL, SANCHEZ, HOWARD,  
McNEILL, KRAJEWSKI, KENYATTA, SIMS, HILL-EVANS, CIRESI,  
INNAMORATO AND OTTEN, NOVEMBER 29, 2022

---

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 29, 2022

---

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; and establishing the Exoneree  
6 Community Trust Fund.

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

9 Section 1. Section 8522(b) of Title 42 of the Pennsylvania  
10 Consolidated Statutes is amended by adding a paragraph to read:  
11 § 8522. Exceptions to sovereign immunity.

12 \* \* \*

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

17 \* \* \*

18 (11) Wrongful conviction and imprisonment.--Wrongful  
19 conviction and imprisonment for which claims may be brought

1 under Subchapter D (relating to claims for wrongful  
2 conviction and imprisonment).

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

5 SUBCHAPTER D

6 CLAIMS FOR WRONGFUL CONVICTION AND IMPRISONMENT

7 Sec.

8 8581. Eligibility.

9 8582. Statement of claim and basis of award.

10 8583. Proceedings.

11 8584. Presentation of claim.

12 8585. Compensation.

13 8586. Annuity compensation and payments.

14 8587. Establishment of Exoneree Community Trust Fund.

15 8588. Board of Trustees.

16 8589. Member Services Council.

17 8590. Report and order.

18 8591. Notice.

19 8592. Statute of limitations and retroactivity.

20 § 8581. Eligibility.

21 (a) Persons who may present claims.--An individual, or the  
22 heirs of the individual if the individual is deceased, convicted  
23 and subsequently imprisoned for one or more crimes that the  
24 individual did not commit may present a claim for damages  
25 against the Commonwealth if:

26 (1) The individual has been released from prison.

27 (2) The individual was either pardoned or the conviction  
28 was vacated or reversed.

29 (3) The accusatory instrument was dismissed or if a new  
30 trial was granted and the individual was retried and found

1 not guilty or was not retried and the accusatory instrument  
2 was dismissed.

3 (4) The individual's conviction was overturned and the  
4 individual subsequently pleaded no contest despite asserting  
5 the individual's innocence.

6 (b) Concurrent sentences.--Other than credit for time  
7 served, a claimant is not entitled to compensation under this  
8 subchapter for any portion of a sentence spent incarcerated  
9 during which the claimant was also serving a concurrent sentence  
10 for another crime to which this subchapter does not apply.

11 (c) Acceptance by claimant.--The acceptance by the claimant  
12 of any judicial award, compromise or settlement shall be in  
13 writing.

14 § 8582. Statement of claim and basis of award.

15 To present a claim for wrongful conviction and imprisonment  
16 and to obtain a judgment in the claimant's favor, the claimant  
17 must establish that:

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

21 (2) The claimant's innocence has been established by a  
22 preponderance of evidence showing that:

23 (i) the claimant's conviction was overturned and the  
24 claimant subsequently pleaded no contest despite  
25 asserting the individual's innocence; or

26 (ii) the claimant did not commit the crime or crimes  
27 for which the claimant was convicted, or act as an  
28 accessory or accomplice to the crimes, and either:

29 (A) the claimant was pardoned by the Governor  
30 for the crime or crimes for which the claimant was

1 sentenced; or

2 (B) the claimant had the judgment of the  
3 conviction reversed or vacated, and either the  
4 accusatory instrument was dismissed, or the claimant  
5 was retried and found not guilty.

6 § 8583. Proceedings.

7 Proceedings before a court of competent jurisdiction shall be  
8 governed by rules established by the Pennsylvania Supreme Court,  
9 which shall emphasize, to the greatest extent possible,  
10 informality of proceedings. No claimant shall be required to be  
11 represented or accompanied by an attorney. If a claimant wishes  
12 to be represented by an attorney, the representation shall be  
13 paid by money in the Exoneree Community Trust Fund.

14 § 8584. Presentation of claim.

15 A claim of wrongful conviction and imprisonment shall be  
16 presented to and heard by a court of competent jurisdiction. The  
17 following shall apply:

18 (1) Upon presentation of a claim under section 8582  
19 (relating to statement of claim and basis of award), the  
20 court shall fix a time and place to hear the claim, but no  
21 more than 120 days after presentation of the claim.

22 (2) At least 15 days prior to the time fixed for the  
23 hearing, the court shall mail notice of the time fixed for  
24 the hearing to the claimant and to the district attorney  
25 which serves as the basis for this claim.

26 (3) The district attorney may offer evidence and argue  
27 in opposition to the claim for damages.

28 § 8585. Compensation.

29 If a person who presents a claim and is found by the court to  
30 be entitled to compensation, the compensation shall be as

1 follows:

2 (1) Fifty percent more than the median Pennsylvania  
3 household income from the most recently published census data  
4 per year of wrongful imprisonment. In addition, the following  
5 variables shall be factored into determining the total  
6 financial starting point for an exoneree to be compensated  
7 per year of wrongful incarceration:

8 (i) An additional \$25,000 per year for each year the  
9 exonerated individual was placed on the sex offender  
10 registry.

11 (ii) An additional \$25,000 per year for each year  
12 the exonerated individual was placed on parole.

13 (iii) An additional \$75,000 per year for each year  
14 the exonerated individual was placed on death row.

15 (2) Compensation for child support payments owed by the  
16 person whose imprisonment upon which the claim is based that  
17 became due and interest on child support arrearages that  
18 accrued during the time served in prison but were not paid.

19 (3) All of the following:

20 (i) Enrollment in a State employee health plan.

21 (ii) Counseling services, including financial  
22 literacy counseling and continuing mental health  
23 counseling.

24 (iii) The reimbursement of tuition and fees at any  
25 of the following:

26 (A) A university within the State System of  
27 Higher Education under Article XX-A of the act of  
28 March 10, 1949 (P.L.30, No.14), known as the Public  
29 School Code of 1949.

30 (B) A State-related institution, as defined

1           under section 2001-C of the Public School Code of  
2           1949.

3           (C) A community college in this Commonwealth.

4           (D) A public career and technical school in this  
5           Commonwealth.

6           (iv) Assistance with securing affordable housing,  
7           cost-of-living expenses and transportation expenses  
8           during the proceedings and for a period of not less than  
9           12 months after the claimant's award.

10          (v) Compensation for any reasonable reintegrative  
11          services and mental and physical health care costs  
12          incurred by the claimant for the time period between the  
13          claimant's release from incarceration and the date of the  
14          claimant's award.

15          (vi) Reasonable attorney fees calculated at 10% of  
16          the damage award plus expenses. Exclusive of expenses,  
17          these fees may not exceed \$75,000, as adjusted annually  
18          to account for inflation from the effective date of this  
19          section, unless the court approves an additional amount  
20          for good cause. The attorney fees may not be deducted  
21          from the compensation due the claimant nor may the  
22          claimant's counsel receive additional fees from the  
23          client for this matter under this subchapter.

24          (vii) Compensation to individuals entitled to child  
25          support payments owed by the claimant that became due and  
26          interest on child support arrearages that accrued during  
27          the time the claimant served in prison but were not paid.  
28          The compensation shall be deducted from the total damage  
29          award to the claimant under paragraph (1).

30          (viii) A professionally prepared, confidential

1 digital and physical file containing the claimant's  
2 medical records, diagnoses, medication record, up-to-date  
3 State identification card or driver's license, birth  
4 certificates and any other necessary identifying or  
5 personal historical items, to be required from and  
6 provided by the Department of Corrections. This file, in  
7 all forms, shall only be accessible by the claimant or an  
8 individual given signed, written permission by the  
9 claimant to access the file. A full-time, paid staff  
10 shall be employed in the Department of Human Services to  
11 expedite the requirements of this subparagraph.

12 (ix) Access to ongoing mental health services, as  
13 well as services to assist with acquiring future State  
14 identification cards, driver's licenses, passports, birth  
15 certificates and any other necessary identifying items.

16 (4) The following shall apply:

17 (i) If the claimant previously won a monetary award  
18 against the Commonwealth or any political subdivision in  
19 a civil action related to the same subject, or has  
20 entered into a settlement agreement with the Commonwealth  
21 or any political subdivision related to the same subject,  
22 the amount of the award or settlement agreement, less any  
23 sums paid to attorneys for costs in litigating the other  
24 civil action or obtaining the settlement agreement, shall  
25 be deducted from the sum of money to which the claimant  
26 is entitled under paragraph (1).

27 (ii) If subparagraph (i) does not apply, and if the  
28 claimant has been awarded a payment under this subchapter  
29 and subsequently wins a monetary award against the  
30 Commonwealth or any political subdivision in a civil

1 action related to the same matter or enters into a  
2 settlement agreement with the Commonwealth or any  
3 political subdivision related to the same matter, the  
4 claimant shall reimburse the Commonwealth for the sum of  
5 money paid under paragraph (1), less any amount paid for  
6 attorney fees for costs in litigating the other civil  
7 action or obtaining the settlement award. A reimbursement  
8 required under this subsection may not exceed the amount  
9 of the monetary award the claimant wins for damages in  
10 the other civil action or the amount received in the  
11 settlement agreement.

12 (5) For any compensation authorized under this  
13 subchapter, the payment of compensation may be:

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

15 (ii) if the claimant is deceased, to or for the  
16 benefit of any one or more of the heirs of the claimant  
17 who at the time of the claimant's death were dependent  
18 upon the claimant for support.

19 (6) The damage award shall not be subject to any cap  
20 applicable to private parties in civil lawsuits.

21 (7) The compensation shall include reimbursement for any  
22 statutorily mandated and court-assessed costs, fines,  
23 restitution and fees to the extent that they have been  
24 collected.

25 (8) A decision of the court on behalf of the claimant  
26 shall result in the automatic expungement of the criminal  
27 history record of the claimant within 60 days as it relates  
28 to the crimes that form the basis of the claim. As part of  
29 the court's decision, the court shall specifically direct the  
30 Pennsylvania State Police and the prosecuting district

1 attorney of the original crimes that form the basis of this  
2 claim to expunge the record consistent with this paragraph.  
3 The court shall forward a copy of its decision to the  
4 Pennsylvania State Police and to the prosecuting district  
5 attorney.

6 (9) The compensation shall not be subject to any tax  
7 imposed by the Commonwealth.

8 § 8586. Annuity compensation and payments.

9 (a) General rule.--A person entitled to compensation under  
10 this subchapter shall be entitled to standard annuity payments  
11 under this section unless the person elects to receive  
12 alternative annuity payments.

13 (b) Payments.--Standard annuity payments shall be based on a  
14 present value sum equal to the amount to which the person is  
15 entitled under section 8585 (relating to compensation).

16 (c) Payment of annuity.--A claimant may select one of the  
17 following options to provide for the payment of the claimant's  
18 annuity upon the claimant's death:

19 (1) The alternative annuity payments are payable to and  
20 throughout the life of the claimant's spouse upon the death  
21 of the claimant.

22 (2) Three-fourths of the initial alternative annuity  
23 payment amount is payable to and throughout the life of the  
24 claimant's spouse upon the death of the claimant.

25 (3) One-half of the initial alternative annuity payment  
26 amount is payable to and throughout the life of the  
27 claimant's spouse upon the death of the claimant.

28 (4) If the claimant dies before 180 monthly alternative  
29 annuity payments have been made, the remainder of the 180  
30 payments are payable to the claimant's spouse or designated

1 beneficiary.

2 (5) If the claimant dies before 120 monthly alternative  
3 annuity payments have been made, the remainder of the 120  
4 payments are payable to the claimant's spouse or designated  
5 beneficiary.

6 (d) Election.--An election under subsection (c) must be made  
7 no later than 45 days after the date on which the claimant:

8 (1) files the application for compensation with the  
9 court; or

10 (2) experiences one of the following life-changing  
11 events:

12 (i) Marriage or divorce of the claimant.

13 (ii) The addition of a dependent of the claimant.

14 (iii) The death of a dependent, spouse or  
15 beneficiary of the claimant.

16 (e) Form.--An election under subsection (d) must be made on  
17 a form prescribed by the court that:

18 (1) Identifies the claimant's spouse or designated  
19 beneficiary.

20 (2) Specifies the option selected under subsection (c).

21 (f) Increase of payment upon death of spouse.--A claimant  
22 who elects to receive alternative annuity payments under this  
23 section that are payable to the claimant and the claimant's  
24 spouse and survives the claimant's spouse is entitled to an  
25 increase in the amount of the claimant's monthly annuity  
26 payments so that the claimant's monthly payments equal the  
27 monthly payments the claimant would have received had the  
28 claimant not elected to receive the alternative annuity  
29 payments. The claimant is entitled to the increased payments  
30 beginning the month following the month in which the claimant's

1 spouse dies and ending on the date of the claimant's death.

2 (g) Beneficiary not spouse.--A claimant who elects to  
3 receive alternative annuity payments under this section that are  
4 payable to the claimant and the claimant's spouse and survives  
5 the claimant's spouse may select a designated beneficiary or  
6 multiple beneficiaries who are not a spouse to receive the  
7 remainder of the alternative annuity payments.

8 § 8587. Establishment of Exoneree Community Trust Fund.

9 (a) Establishment.--The Exoneree Community Trust Fund is  
10 established as a restricted account in the State Treasury. Money  
11 in the account shall be expended in accordance with this section  
12 each fiscal year.

13 (b) Transfer.--An amount equal to the product of multiplying  
14 the median Pennsylvania household income as determined by the  
15 most recently published data from the United States Census  
16 Bureau by the number of documented exonerees within this  
17 Commonwealth shall be transferred from the General Fund to the  
18 Exoneree Community Trust Fund within 90 days of the effective  
19 date of this section. The money in the fund is appropriated to  
20 the Exoneree Community Trust Fund on a continuing basis to carry  
21 out the purposes of this section. In addition to any  
22 appropriation, the Commonwealth may apply for and accept grants,  
23 gifts, donations, bequests and settlements from any public or  
24 private source. Money received shall be deposited into the  
25 Exoneree Community Trust Fund established under this section.

26 (c) Use of fund.--The Board of Trustees, in consultation  
27 with the Member Services Council, shall use money in the  
28 Exoneree Community Trust Fund to benefit communities that have  
29 been impacted by wrongful convictions and wrongful incarceration  
30 and may include:

1       (1) Grants and fellowships for research and advocacy  
2 regarding preventing future wrongful convictions, the  
3 exoneration of incarcerated individuals and reentry of  
4 formerly incarcerated individuals, as approved by the board.

5       (2) Financial assistance to eligible exonerees who need  
6 assistance paying fines, fees or other one-time or emergent  
7 expenses, as approved by the Member Services Council.

8       (3) Any other requests jointly approved by the Board of  
9 Trustees and the Member Services Council that support  
10 communities impacted by wrongful conviction and wrongful  
11 incarceration.

12 § 8588. Board of Trustees.

13 The following shall apply:

14       (1) The Board of Trustees shall be composed of  
15 professionals from a variety of relevant backgrounds, to be  
16 chosen by the Executive Director of the Pennsylvania  
17 Commission on Crime and Delinquency, including, but not  
18 limited to, the following:

19           (i) Financial advisory services.

20           (ii) Individuals who work in a trauma-informed  
21 field.

22           (iii) Community economic development.

23           (iv) Micro-lending.

24           (v) Social impact investing.

25           (vi) Environmental and social governance.

26           (vii) Democratic workplace operations.

27       (2) An exoneree applying for a position on the board  
28 must have received training in financial literacy or  
29 restorative justice or employment in a position with a focus  
30 on restorative justice or a related field. The following

1 shall apply:

2 (i) The training must be provided through a  
3 certificate program through the Pennsylvania State System  
4 of Higher Education, State-related school or community  
5 college, with input from other State agencies as  
6 appropriate.

7 (ii) The certificate program under subparagraph (i)  
8 must be approved by the Department of Education in an  
9 approval process as determined by the department.

10 (3) The board shall assist the Member Services Council  
11 in using funds to facilitate activities as described in  
12 section 8587(c) (relating to establishment of Exoneree  
13 Community Trust Fund).

14 § 8589. Member Services Council.

15 The following shall apply:

16 (1) The council shall review requests for financial  
17 assistance of eligible exonerees who need assistance paying  
18 finances, fees or other one-time or emergent expenses.

19 (2) Eligible exonerees under paragraph (1) are  
20 individuals with a documented investment in the individual's  
21 health and well-being.

22 (3) The council shall be composed of the following:

23 (i) The Secretary of Community and Economic  
24 Development.

25 (ii) The Executive Director of the Office of  
26 Advocacy and Reform.

27 (iii) The Secretary of Education.

28 (iv) The Secretary of the Office of Environmental  
29 Justice within the Department of Environmental  
30 Protection.

1           (v) The Secretary of Health, or a designee.

2           (vi) The Director of the Department of Health's  
3 Office of Health Equity.

4           (vii) The Secretary of Human Services.

5           (viii) The Chief Diversity, Equity and Inclusion  
6 Officer of the Pennsylvania State System of Higher  
7 Education's Office of Diversity, Equity and Inclusion.

8           (ix) The State Treasurer, or a designee.

9           (x) The Secretary of the Board of Pardons.

10 § 8590. Report and order.

11 The court shall issue a ruling and order and provide the  
12 State Treasurer a statement of the total compensation due and  
13 owing to the claimant from the Commonwealth.

14 § 8591. Notice.

15 (a) Court.--A court granting judicial relief as described  
16 under section 8582 (relating to statement of claim and basis of  
17 award) shall provide a copy of this subchapter to the individual  
18 seeking relief at the time the court determines that the  
19 claimant's claim is likely to succeed. The individual shall be  
20 required to acknowledge receipt of a copy of this subchapter in  
21 writing on a form established by the Supreme Court. The  
22 acknowledgment shall be entered on the docket by the court and  
23 shall be admissible in any proceeding filed by a claimant under  
24 this subchapter.

25 (b) Board of Pardons.--Upon the issuance of a full pardon on  
26 or after the effective date of this subchapter, the Board of  
27 Pardons shall provide a copy of this subchapter to an individual  
28 when pardoned as described under section 8582. The individual  
29 shall be required to acknowledge receipt of a copy of this  
30 subchapter in writing on a form established by the Board of

1 Pardons, which shall be retained on file by the Board of Pardons  
2 as part of its official records and shall be admissible in any  
3 proceeding filed by a claimant under this subchapter.

4 (c) Failure to provide notice.--In the event a claimant  
5 granted judicial relief or a full pardon on or after the  
6 effective date of this subchapter shows that the claimant did  
7 not properly receive a copy of the information required under  
8 this section, the claimant shall receive a one-year extension on  
9 the two-year time limit provided under section 8592 (relating to  
10 statute of limitations and retroactivity).

11 § 8592. Statute of limitations and retroactivity.

12 (a) General rule.--Except as provided under subsection (c),  
13 an action for compensation brought by a wrongfully convicted  
14 individual under this subchapter shall be commenced within two  
15 years after either the grant of a pardon or date when the  
16 accusatory instrument was dismissed, or the individual was found  
17 not guilty on retrial.

18 (b) Tolling.--Any action by the Commonwealth challenging or  
19 appealing the grant of judicial relief tolls the two-year  
20 period.

21 (c) Retroactivity.--An individual convicted, incarcerated  
22 and released from custody prior to the effective date of this  
23 subsection may commence an action under this subchapter.

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