

1 HB394
2 205076-1
3 By Representatives Hall, Daniels, Rafferty, England, Warren,
4 Forte, Clarke, McClammy, Gray, McCampbell, Jackson, Morris,
5 Givan, Alexander, Grimsley, Bracy, Lawrence, Howard, Jones (S)
6 and Coleman
7 RFD: Ways and Means General Fund
8 First Read: 05-MAR-20

SYNOPSIS: Under existing law, eligibility for compensation for wrongful incarceration requires an individual's conviction to be overturned on grounds of innocence.

This bill would provide compensation for wrongful incarceration when a conviction is reversed and the state declines to reprosecute and would provide for an amount of compensation.

A BILL
TO BE ENTITLED
AN ACT

Relating to wrongful incarceration; to amend Sections 29-2-156 and 29-2-159, Code of Alabama 1975, to further provide for compensation of a wrongfully incarcerated individual; and to set the amount of the compensation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 29-2-156 and 29-2-159, Code of Alabama of 1975, are amended to read as follows:

1 "§29-2-156.

2 "In order to be eligible to receive compensation for
3 wrongful incarceration a person must satisfy one of the
4 following:

5 "(1) Have been convicted by the state of one or more
6 felony offenses, all of which the person was innocent, and
7 have served time in prison as a result of the conviction or
8 convictions, ~~and.~~

9 "(2) Have been incarcerated pretrial on a state
10 felony charge, for at least two years through no fault of his
11 or her own, before having charges dismissed based on
12 innocence.

13 "(3) Have been convicted by the state of one or more
14 felony offenses and incarcerated for at least two years, the
15 felony conviction was reversed on appeal upon findings of
16 ineffective assistance of counsel or prosecutorial misconduct
17 that was prejudicial to the defendant, and the state declined
18 to re prosecute the case.

19 "§29-2-159.

20 "(a) (1) If an applicant's eligibility under Section
21 29-2-156(1) or (2) is verified by the Division of Risk
22 Management, the committee shall certify to the applicant an
23 amount equal to fifty thousand dollars (\$50,000) for each year
24 or the pro rata amount for the portion of each year of
25 incarceration.

26 "(2) If an applicant is eligible to receive
27 compensation for wrongful incarceration under Section 29-2-156

1 (3), the committee shall certify to the applicant an amount
2 equal to twenty-five thousand dollars (\$25,000) for each year
3 or the pro rata amount for the portion of each year of
4 incarceration.

5 "(b) The committee, after hearing testimony, may
6 recommend some discretionary amount in addition to the base
7 amount if circumstances warrant such a supplemental award. Any
8 ~~such~~ supplemental amount shall be in the form of a bill to be
9 presented to the Legislature.

10 "(c) At the hearing on additional compensation the
11 applicant may introduce evidence in the form of affidavits or
12 testimony to support the additional compensation as provided
13 in subsection (b) and the Attorney General or the local
14 prosecutor's office under whose jurisdiction the case was
15 prosecuted may introduce counter affidavits or testimony in
16 refutation. If the committee finds from the evidence that the
17 applicant warrants additional compensation, it shall recommend
18 the amount the applicant is eligible to be paid for over the
19 base amount and shall make a recommendation to the
20 Legislature.

21 "(d) The Comptroller upon proper certification from
22 the committee shall pay the amount of the base award to the
23 applicant out of any available state funds appropriated by the
24 Legislature for such purposes. Any amounts for additional
25 compensation passed by the Legislature will be paid as
26 provided for in ~~such~~ the legislation.

1 "(e) The committee shall give written notice of its
2 certifications within 10 days to all parties involved in the
3 process as well as the appropriate state officials charged
4 with processing the compensation. The determination of the
5 committee shall not be subject to review upon appeal of the
6 claimant or the state."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.