

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 407 proposes to enact the “Wrongful Conviction Compensation and Services Act”. The bill is comprised of eight sections:

Section 1: Short title.

Section 2: Defines “conviction”, “correctional facility”, “incarceration”, “petition”, “petitioner”, “released person”, and “sentenced”.

Section 3: Sets forth the requirements and procedures for petitions filed under the Act, including the timeline for setting a hearing on the petition and providing notice of that hearing.

Section 4: Provides the requirements for establishing eligibility for relief, including the standard of proof for establishing eligibility. This section requires that the released person was convicted and sentenced based on the conviction, that they served all or part of that sentence, that the person did not commit the crime for which they were convicted, and that the person was pardoned or had their conviction overturned. (The bill provides that a petitioner may establish innocence by establishing by a preponderance of the evidence that a court found that the released person did not commit the crime, or that a court granted a habeas corpus petition based upon a finding that no reasonable jury would have convicted the petitioner.) This section also provides circumstances under which a petition shall be denied, including that the released person was an accomplice in the offense for which they were convicted, or that the released person intentionally and voluntarily caused their own conviction to prevent the actual perpetrator of the crime from being convicted.

Section 5: Instructs district courts to take into account the “difficulties of proof caused by the passage of time” when exercising their discretion regarding the weight and admissibility of evidence presented by a petitioner, and prohibits the fact that a petition is granted or denied from admission as evidence in any other proceeding.

Section 6: Prescribes the relief that a petitioner shall be entitled to if their petition is granted, including compensation for noneconomic and economic damages, back child support payments missed, reasonable attorney fees and costs, reimbursement for costs, fines, fees, and other charges imposed on the released person, reimbursement for restitution amounts paid, and reimbursement for any reasonable reintegration services and health care costs incurred.

Section 7: Requires that the state provide a one-time stipend of \$2,000.00 upon the person’s release or as soon as possible thereafter, and that the state provide certain services, including public assistance, insurance, community corrections outpatient and residential programs, and food benefits, at no cost to the released person for a period of two years post-release.

Section 8: Requires that the court shall inform a released person of their rights under the

Wrongful Conviction Compensation and Services Act upon the person's conviction being overturned, and that the Governor's office shall do the same upon issuing a pardon to a released person.

Section 9: Provides that a released person or petitioner shall file a petition within six years of receiving notice of their rights under the Act, or within six years of the effective date of the Act, or within four years of the date of the receipt of new evidence if the new evidence could not have been obtained sooner with reasonable diligence.

Section 10: Prohibits sovereign immunity as a defense to a petition filed under the Wrongful Conviction Compensation and Services Act.

Section 11: Creates the Wrongful Conviction Compensation Fund.

Section 12: Provides that the Act shall be liberally construed to carry out its purposes.

Section 13: Appropriates nine million dollars, nonreverting, from the General Fund to the Wrongful Conviction Compensation Fund to carry out the purposes of the Wrongful Conviction Compensation and Services Act.

Section 14: Provides an effective date of July 1, 2025.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

As of June 2022, the most recent '50-state' survey available, 39 U.S. jurisdictions and the federal government have statutes in place to provide compensation for the wrongly incarcerated, some of which date back as far as 1913. New Mexico and eleven other states do not have compensation statutes. See "Compensation Statutes: A National Overview" created by Adele Bernhard and the Innocence Project and updated by The National Registry of Exonerations at the University of Michigan, available here:

<https://www.law.umich.edu/special/exoneration/Documents/Compensation%20Statutes%20A%20National%20Overview.pdf>.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS