

<b>LFC Requester:</b>	<b>Felix Chavez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 02/17/2025 *Check all that apply:*  
**Bill Number:** SB407 Original  Correction   
 Amendment  Substitute

**Sponsor:** Linda Lopez & Antoinette Sedillo Lopez **Agency Name and Code Number:** 770-NMCD  
**Short Title:** Wrongful Conviction Compensation and Services Act **Person Writing:** Anisa Griego-Quintana  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	0	0	0	0	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: Provides a process for a person wrongfully convicted of a crime to file a petition for relief that includes compensation based on time incarcerated. Creates the Wrongful Conviction Compensation Fund and appropriates \$9 million (GF, nonreverting) to the fund.

**ELIGIBILITY FOR RELIEF:** A petitioner must establish each of the following by a preponderance of the evidence:

- The person was convicted and sentenced based on the conviction
- The person served all or part of the sentence
- The person did not commit the crime that resulted in the conviction (or the crime that resulted in the conviction was not committed) and
- The person was pardoned or the conviction was overturned, reversed, or vacated.
- If the conviction was overturned, reversed, or vacated, the person was not convicted of any lesser included felony that arose from the same facts at the crime that resulted in the conviction, except for conviction of a lesser felony that resulted from an Alford plea or a plea of no contest while maintaining innocence and either (1) the charge in the conviction was dismissed or the person was acquitted on retrial, or (2) the person would otherwise have been entitled to a new trial, entered an Alford plea, or a plea of no contest while maintaining innocence.

**DENIAL OF A PETITION.** A petition shall be denied if the Attorney General established by a preponderance of the evidence that:

- The released person was an accomplice in the commission of the crime for which the person was convicted or
- The released person intentionally and voluntarily caused the person's own conviction by perjury or fabrication of evidence at trial to prevent the actual perpetrator from being convicted.

Establishes timeframes for hearing and for notice to the state Department of Justice.

**RELIEF AND COMPENSATION.** A petitioner whose petition is granted shall be awarded:

- Noneconomic damages that arise from the conviction in an amount not less than (1) \$100,000 per year of incarceration while awaiting a sentence of death; (2) \$75,000 per year of incarceration other than awaiting a sentence of death; and (3) \$50,000 per year of parole or probation or subject to a requirement to register as a sex offender
- Economic damages
- Compensation to persons entitled to child support owed by the released person that became due but were not paid during incarceration, plus interest on arrearage
- Reasonable attorney fees and costs
- Reimbursement of any fines, fees, or other charges imposed as a result of the conviction
- Reimbursement for any restitution amounts paid by or on behalf of the released person
- Reimbursement for any reasonable reintegration services and mental and physical health care costs incurred between release from incarceration and the date of award of relief.

A petitioner is not entitled to relief for any period of time during which the released person was

serving a concurrent service for a separate crime for which the conviction was not overturned, released, or vacated or the person was not pardoned.

Damages awarded are not subject to offset for

- Costs incurred by the government for incarceration
- Value of goods or services provided to the person pursuant to the act
- Costs for provision of a defense for an indigent released person pursuant to the Indigent Defense Act.

Any prior monetary award or settlement agreement in a civil action in connection with the conviction reduces the award of noneconomic relief and economic relief. Any subsequent award or settlement requires the petitioner to deduct from the damages in the civil action any amount paid for attorney fees and costs and reimbursement to the state for noneconomic and economic relief.

When a petition is granted, the district court shall enter an order of expungement or an order sealing records and provide notice to the state Department of Justice. The state Department of Justice shall in turn provide the petitioner a letter stating that the released person was found innocent of the crimes and issue.

#### OTHER SERVICES TO BE PROVIDED.

After a conviction is reversed, overturned, or vacated, or the person is pardoned, the state shall provide

- A stipend of \$2,000 to assist with transition
- For two years from release, (1) services and housing in community corrections outpatient programs and residential programs; (2) public assistance grants; (3) health, vision and dental insurance at no cost; (4) food benefits; (5) Medicaid personal spending allowance; and (6) utility assistance.

Within 120 days of the effective date of this act, the Health Care Authority shall:

- Adopt rules to implement the provision of other services
- Create an application form for the services
- Designate the person within HCA to process applications
- Document and implement procedures to ensure a determination on applications
- Commence provision of benefits.

Within 120 days of the effective date of this act, the Corrections Department, CYFD, and all other state and local government departments and agencies responsible for a correctional facility or program shall adopt rules to ensure that upon release, the person is provided with an application form for benefits and the transition assistance stipend.

**NOTICE OF RIGHT TO FILE A PETITION AND TIME TO FILE:** Requires the court or the office of the Governor to provide a released person with information about the act and its provisions. A person who receives such notice shall file a petition within six years of the date notice was provided. If, on or after a date two years before the right to file a petition ends, a released person obtains new evidence of the person's innocence that could not have been previously obtained, the person may file a petition under the act within four years of the date when the new evidence is obtained.

WRONGFUL CONVICTION COMPENSATION FUND. Administered by the state Department of Justice for the purpose of paying petitioners awarded relief under the act.

## **FISCAL IMPLICATIONS**

The proposed bill, which allows a person wrongfully convicted of a crime to file a petition for relief and receive compensation based on the time incarcerated, would not fiscally affect the Corrections Department. This is because the Department is solely responsible for carrying out sentences and incarcerating as determined by the courts, and it does not play a role in the conviction process, which is under the jurisdiction of the judicial system.

If an expungement or sealing order is issued after a conviction is reversed, and the individual has served a period of incarceration or community supervision with the Department, the Department would be responsible for updating its internal records and ending any further supervision, if applicable. The Department's role in this process remains administrative.

If the proposed bill is passed, the Department will need to update its existing policies and procedures to ensure that individuals are provided with the necessary application forms and information about the available benefits and transition assistance stipend at the time of their release. The Department's role will be limited to facilitating this process, without requiring significant changes to its core operations.

## **SIGNIFICANT ISSUES**

None for the Corrections Department.

## **PERFORMANCE IMPLICATIONS**

None for the Corrections Department.

## **ADMINISTRATIVE IMPLICATIONS**

None for the Corrections Department.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None for the Corrections Department.

## **TECHNICAL ISSUES**

None for the Corrections Department.

## **OTHER SUBSTANTIVE ISSUES**

None for the Corrections Department.

## **ALTERNATIVES**

None for the Corrections Department.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

**AMENDMENTS**

None proposed by the Corrections Department.