

WRONGFUL IMPRISONMENT CLAIMS

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Senate Bill 895 as reported from House committee
Sponsor: Sen. Steven Bieda

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 896 as reported from House committee
Sponsor: Sen. Rick Jones

House Committee: Law and Justice
Senate Committee: Judiciary

Complete to 12-19-18

SUMMARY:

Senate Bill 896 would extend the window during which certain individuals who were wrongfully incarcerated could apply for compensation under the Wrongful Imprisonment Compensation Act, and Senate Bill 895 would amend provisions in a different act to exempt claims for such compensation from statutes of limitations for filing a claim against the state that could otherwise restrict or bar claims filed under the Wrongful Imprisonment Compensation Act.

Senate Bill 895 would amend Chapter 64 of the Revised Judicature Act (RJA), entitled “Court of Claims,” to specify that the following provisions pertaining to bringing an action against the state *would not apply* to a claim for compensation under the Wrongful Imprisonment Compensation Act:

- The requirement that a written claim against the state, or a written notice of intention to file a claim against the state, be filed with the clerk of the Court of Claims within one year after the claim accrued.
- For a claim against the state for property damage or personal injuries, the requirement that the claim or notice of intention to file a claim be filed with the clerk of the Court of Claims within six months after the event that gives rise to the claim.
- The requirements pertaining to information that must be included in or accompanying a claim or notice of intention to file a claim against the state.
- The permanent bar on bringing a claim against the state unless the claim is filed with the clerk of the Court of Claims, or an action commenced on the claim in federal court (as authorized under the RJA), within three years after the claim first accrues.

The bill also specifies that Sections 6431 and 6452, which contain the provisions described above, would—as amended by Senate Bill 895—apply retroactively to March 29, 2017 (the date the Wrongful Imprisonment Compensation Act became law).

Further, the bill would make numerous revisions of a technical or editorial nature to update and clarify the language in several provisions.

MCL 600.6431 and 600.6452

Senate Bill 896 would amend the Wrongful Imprisonment Compensation Act. The window in which to file a claim for compensation under the Act depends on the person's status at the time the bill became law. Currently, an action for compensation must be commenced within 3 years after entry of a verdict, order, or judgment that reverses or vacates the conviction with the charges being dismissed or the person being found not guilty on retrial. The bill would not change this window.

However, for an individual who had been convicted, imprisoned, and released from custody *before* the Act's effective date of March 29, 2017, an action had to be commenced before the expiration of 18 months after that date (September 29, 2018). The bill would extend the deadline, or window, for these individuals to 18 months from the date Senate Bill 896 takes effect. In addition, the bill would specify that Section 7, which the bill amends, would apply retroactively to March 29, 2017.

MCL 691.1757

BRIEF DISCUSSION:

The bills are considered to be providing a technical fix to preserve the intent of Public Act 343 of 2016, the Wrongful Imprisonment Compensation Act, to provide compensation to eligible individuals who had been convicted and imprisoned for acts they did not commit. Under the Act, individuals who had been exonerated and released from prison prior to the Act's March 29, 2017 effective date had 18 months, or until September 29, 2018, to either file a claim for compensation under the Act with the Court of Claims or file a notice of intent to make such a claim. Those exonerated and released after the Act's effective date have three years after the conviction is reversed or vacated and either the charges are dismissed or the individual is found not guilty on retrial.

The problem the bills would address is that the Court of Claims (the court in which all cases against the state must be filed) recently held that provisions in a different statute—the Revised Judicature Act—took precedence over the time periods in the Wrongful Imprisonment Compensation Act. The RJA requires all actions claiming property damage or personal injuries to be filed, or a notice of intent to be filed, within 6 months of when the damage or injury occurred. The court ruling in effect overturned the time periods in the Wrongful Imprisonment Compensation Act, which meant that those released prior to the Act's effective date had only until September 29, 2017, to file a claim for compensation. As a result, several cases that were filed after that date, but before the Act's 2018 deadline, have already been dismissed.

Proponents of the bills say that typically a law of general application, such as the time period to file a claim against the state for property damage or personal injury, does not take

precedence over a statute of limited applicability—such as the time period granted those who had been wrongly imprisoned but released prior to the effective date of the Wrongful Imprisonment Compensation Act. In addition, they argue, the court ruling clearly goes against the well-publicized intent of that legislation. Enactment of the bills will restore the legislature’s intent to create a mechanism of fair compensation for those meeting the criteria and who had been wrongfully convicted.

FISCAL IMPACT:

Senate Bills 895 and 896 would have an indeterminate fiscal impact on the state. The fiscal impact would depend on the number of additional filings that would occur as a result of provisions contained in the bills. Under SB 895, the six-month filing deadline, found in the Revised Judicature Act, would no longer apply to Wrongful Imprisonment Compensation Act cases, and, under SB 896, the filing deadline would be extended for another 18 months for prisoners exonerated before the Wrongful Imprisonment Compensation Act took effect.

POSITIONS:

A representative of the Cooley Law School/Innocence Project testified in support of the bills. (11-28-18)

The Michigan Catholic Conference indicated support for the bills. (11-28-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.