

WRONGFUL IMPRISONMENT COMPENSATION ACT (EXCERPT)
Act 343 of 2016

***** 691.1755.new THIS NEW SECTION IS EFFECTIVE MARCH 29, 2017 *****

691.1755.new Judgment in plaintiff's favor; findings; award of compensation; payments; evidence in civil action; acceptance; compromise or settlement of claim; writing; offset; award as subject to income taxes; payment of child support owed by plaintiff; collection of debt by state or local government; setoff or reimbursement for damages; order.

Sec. 5. (1) In an action under this act, the plaintiff is entitled to judgment in the plaintiff's favor if the plaintiff proves all of the following by clear and convincing evidence:

(a) The plaintiff was convicted of 1 or more crimes under the law of this state, was sentenced to a term of imprisonment in a state correctional facility for the crime or crimes, and served at least part of the sentence.

(b) The plaintiff's judgment of conviction was reversed or vacated and either the charges were dismissed or the plaintiff was determined on retrial to be not guilty. However, the plaintiff is not entitled to compensation under this act if the plaintiff was convicted of another criminal offense arising from the same transaction and either that offense was not dismissed or the plaintiff was convicted of that offense on retrial.

(c) New evidence demonstrates that the plaintiff did not perpetrate the crime and was not an accomplice or accessory to the acts that were the basis of the conviction, results in the reversal or vacation of the charges in the judgment of conviction or a gubernatorial pardon, and results in either dismissal of all of the charges or a finding of not guilty on all of the charges on retrial.

(2) Subject to subsections (4) and (5), if a court finds that a plaintiff was wrongfully convicted and imprisoned, the court shall award compensation as follows:

(a) Fifty thousand dollars for each year from the date the plaintiff was imprisoned until the date the plaintiff was released from prison, regardless of whether the plaintiff was released from imprisonment on parole or because the maximum sentence was served. For incarceration of less than a year in prison, this amount is prorated to 1/365 of \$50,000.00 for every day the plaintiff was incarcerated in prison.

(b) Reimbursement of any amount awarded and collected by this state under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

(c) Reasonable attorney fees incurred in an action under this act. All of the following apply to attorney fees under this act:

(i) The court shall not award attorney fees unless the plaintiff has actually paid the amount awarded to the attorney.

(ii) It is not necessary that the plaintiff pay the attorney fees before an initial award under this act. The court may award attorney fees on a motion brought after the initial award.

(iii) The attorney fees must not exceed 10% of the total amount awarded under subdivisions (a) and (b) or \$50,000.00, whichever is less, plus expenses.

(iv) An award of attorney fees under this act may not be deducted from the compensation awarded the plaintiff, and the plaintiff's attorney is not entitled to receive additional fees from the plaintiff.

(3) An award under subsection (2) is not subject to a limit on the amount of damages except as stated in this act.

(4) Compensation may not be awarded under subsection (2) for any time during which the plaintiff was imprisoned under a concurrent or consecutive sentence for another conviction.

(5) Compensation may not be awarded under subsection (2) for any injuries sustained by the plaintiff while imprisoned. The making of a claim or receipt of compensation under this act does not preclude a claim or action for compensation because of injuries sustained by the plaintiff while imprisoned.

(6) In the discretion of the court, the total amount awarded under subsection (2)(a) and (b) may be paid to the plaintiff in a single payment or in multiple payments. If the court orders the compensation to be paid in multiple payments, the initial payment must be 20% of the total amount awarded or more and the remainder of the payments must be made over not more than 10 years.

(7) An award of compensation under this act is not a finding of wrongdoing against anyone. An award of compensation under this act is not admissible in evidence in a civil action that is related to the investigation, prosecution, or conviction that gave rise to the wrongful conviction or imprisonment.

(8) The acceptance by the plaintiff of an award under this act, or of a compromise or settlement of the claim, must be in writing and, unless it is procured by fraud, is final and conclusive on the plaintiff, constitutes a complete release of all claims against this state, and is a complete bar to any action in state court by the plaintiff against this state based on the same subject matter. However, the acceptance by the plaintiff of an award under this act, or of a compromise or settlement of the plaintiff's claim, does not operate as a waiver

of, or bar to, any action in federal court against an individual alleged to have been involved in the investigation, prosecution, or conviction that gave rise to the wrongful conviction or imprisonment.

(9) A compensation award under subsection (2) may not be offset by any of the following:

(a) Expenses incurred by this state or any political subdivision of this state, including, but not limited to, expenses incurred to secure the plaintiff's custody or to feed, clothe, or provide medical services for the plaintiff while imprisoned, including expenses required to be collected under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406. The attorney general is specifically excused from complying with the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

(b) The value of any services awarded to the plaintiff under this section.

(c) The value of any reduction in fees for services awarded to the plaintiff under this act.

(10) An award under subsection (2) is not subject to income taxes.

(11) A compensation award under this act is subject to the payment of child support, including child support arrearages, owed by the plaintiff. The plaintiff remains liable for any child support or arrearage under the office of child support act, 1971 PA 174, MCL 400.231 to 400.240, and the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, except for any child support or arrearage that erroneously accrued while the plaintiff was imprisoned. Child support must be deducted from an award under this act before the plaintiff receives any of the money from the award. This subsection does not affect any ongoing child support obligation of the plaintiff.

(12) This act does not impair or limit the right of a state or local government to collect a debt of a plaintiff from the plaintiff's award of compensation under this act.

(13) An award of compensation under this act is subject to setoff or reimbursement for damages obtained for the wrongful conviction or imprisonment from any other person.

(14) If a court determines that a plaintiff was wrongfully convicted and imprisoned, the court shall enter an order that provides that any record of the arrest, fingerprints, conviction, and sentence of the plaintiff related to the wrongful conviction be expunged from the criminal history record. A document that is the subject of an order entered under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2016, Act 343, Eff. Mar. 29, 2017.