

The House Committee on Rules offers the following substitute to SB 429:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 28 and 50 of the Official Code of Georgia Annotated, relating to the General  
2 Assembly and state government, respectively, so as to provide for procedures and processes  
3 concerning the enactment of legislation and the adoption of rules and regulations; to provide  
4 a definition; to provide for the preparation and submission of small business impact analyses  
5 for bills introduced during sessions of the General Assembly; to provide for contracting; to  
6 provide for the revision of small business impact analyses; to create the Wrongful Conviction  
7 Compensation Review Panel; to provide for a short title; to provide for applicability; to  
8 provide for definitions; to provide for the composition of such panel; to provide for the  
9 burden of proof and evidence to be considered by such panel; to provide for evaluation of  
10 claims by such panel; to provide for notice of claims, forms, and hearings; to provide for  
11 such panel to make recommendations to such board; to provide for payments; to provide for  
12 legislative construction; to conform terminology; to provide for related matters; to provide  
13 a short title; to provide an effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38

**PART I**  
**SECTION 1-1.**

This Act shall be known and may be cited as the "Small Business Protection Act of 2024."

**PART II**  
**SECTION 2-1.**

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended in Chapter 5, relating to financial affairs, by revising Code Section 28-5-60, relating to such board's creation, membership, and representation of members by deputies or other designated employees, as follows:

"28-5-60.

(a) As used in this article, the term:

(1) 'Board' means the Claims Advisory Board created in subsection (b) of this Code section.

(2) 'The state or any of its departments or agencies' means any department, agency, bureau, or commission of state government, excluding state authorities, and also excluding any county or municipal department, agency, bureau, commission, or authority.

(b) ~~There is created the Claims Advisory Board, hereinafter called the board, to be composed of the Secretary of State, who shall be the chairman~~ chairperson, the commissioner of human services, the commissioner of corrections, and the commissioner of transportation. Whenever the board takes any official action authorized under the law or duly promulgated rules and regulations, three of the members shall constitute a quorum, ~~; however, any of those individuals named above may be represented by a deputy or other designated employee;~~ and any such action shall be valid if any two of the remaining three ~~individuals~~ members are present during such action. Any board member may be

39 represented by a deputy or other designated employee, and such individual's actions shall  
40 have the same effect as a board member's actions.

41 ~~(b)(c)~~ The ~~Claims Advisory Board~~ board is assigned to the Secretary of State for  
42 administrative purposes only as prescribed in Code Section 50-4-3."

43 **SECTION 2-2.**

44 Said chapter is further amended in Article 4, relating to the Claims Advisory Board, by  
45 repealing Code Section 28-5-60.1, relating to "the state or any of its departments or agencies"  
46 defined, in its entirety.

47 **SECTION 2-3.**

48 Said article is further amended in Part 2, relating to claims against state or departments or  
49 agencies, by adding a new Code section to read as follows:

50 "28-5-87.

51 The provisions of this part shall not apply to a claim made pursuant to Part 4 of this article."

52 **SECTION 2-4.**

53 Said article is further amended by adding a new part to read as follows:

54 "Part 4

55 28-5-110.

56 This part shall be known and may be cited as the 'Wrongful Conviction Compensation Act.'

57 28-5-111.

58 (a) As used in this part, the term:

59 (1) 'Exonerated' means an individual:

60 (A) Had his or her judgment of conviction reversed or vacated, or was granted a new  
 61 trial, and had the indictment or accusation dismissed or nolle prossed;

62 (B) Had his or her judgment of conviction reversed or vacated, or was granted a new  
 63 trial and, upon retrial, acquitted; or

64 (C) Received a pardon based on innocence.

65 (2) 'Panel' means the Wrongful Conviction Compensation Review Panel.

66 (b) The board shall have the authority to consider claims of wrongful conviction and  
 67 recommend compensation pursuant to this part to the Chief Justice of the Supreme Court  
 68 of Georgia.

69 (c)(1) For purposes of considering claims of wrongful conviction and making  
 70 recommendations of compensation to the board pursuant to this part, there is created the  
 71 Wrongful Conviction Compensation Review Panel, to be formed under the board.

72 (2) The panel shall consist of five members, and each member shall serve for a term of  
 73 three years; provided, however, that the two members first appointed under  
 74 subparagraphs (A) and (B) of this paragraph shall be appointed for an initial term of one  
 75 year and the two members first appointed under subparagraphs (C) and (D) of this  
 76 paragraph shall be appointed for an initial term of two years; provided, however, that any  
 77 member appointed to a partial initial term may serve two additional successive terms or  
 78 until his or her successor has been appointed. Any member of the panel may serve two  
 79 successive terms or until his or her successor has been appointed. The members of the  
 80 panel shall be:

81 (A) A judge, retired judge, or retired justice who presides over felony criminal matters  
 82 in any state court of record, appointed by the Chief Justice of the Supreme Court of  
 83 Georgia;

84 (B) A current district attorney appointed by the Governor;

85 (C) A criminal defense attorney appointed by the Governor;

86 (D) An attorney, forensic science expert, or law professor, with expertise in wrongful  
 87 convictions, appointed by the Speaker of the House of Representatives; and

88 (E) An attorney, forensic science expert, or law professor, with expertise in wrongful  
 89 convictions, appointed by the President of the Senate.

90 (3) The members of the panel shall designate one of the members as the panel's  
 91 chairperson.

92 (4) The panel shall have the authority to promulgate rules and regulations to govern its  
 93 consideration of claims brought before the panel and the recommendations by the panel  
 94 to the board.

95 28-5-112.

96 (a) In order to be eligible for compensation under this part, a claimant shall establish by  
 97 a preponderance of evidence to the panel that:

98 (1) The claimant was convicted of one or more felonies and subsequently incarcerated;

99 (2) The claimant proclaims his or her innocence;

100 (3) The claimant did not commit or suborn perjury, fabricate evidence, or engage in  
 101 conduct intended to bring about the conviction. A confession later found to be false, an  
 102 admission of guilt later found to be false, or a guilty plea shall not constitute committing  
 103 or suborning perjury, fabricating evidence, or engaging in conduct intended to bring  
 104 about the conviction under this part; and

105 (4) The claimant was exonerated of the crime for which the claim for compensation for  
 106 wrongful conviction and incarceration is being made.

107 (b) In order to receive compensation under this part, the claimant shall establish by a  
 108 preponderance of evidence to the panel that:

109 (1) The claimant received a pardon based on innocence for the conviction;

110 (2) The claimant was exonerated based on grounds of innocence; or

111 (3) The claimant did not commit the crime for which the claimant was convicted and did  
112 not commit any lesser included offenses.

113 (c) The panel, in evaluating a claim brought under this part, may, in the interest of justice,  
114 give due consideration to difficulties of proof caused by the passage of time, the death or  
115 unavailability of witnesses, the destruction of evidence, and other factors not caused by the  
116 claimant or those acting on his or her behalf.

117 (d) The panel is authorized to determine:

118 (1) Whether a claimant qualified for compensation under this part; and

119 (2) The recommended amount of compensation, if any, with any such amount to be  
120 included in the board's transmittal provided for in subsection (b) of Code  
121 Section 28-5-115.

122 28-5-113.

123 (a) No claim for payment of compensation under this part shall be considered by the panel  
124 unless a notice of claim has been filed with the board within three years after the date the  
125 claimant's eligibility has been established as set forth in paragraph (4) of subsection (a) of  
126 Code Section 28-5-112 or within three years of July 1, 2023, whichever occurs later.

127 (b) The panel shall provide forms to be used in filing a notice of claim and shall make  
128 them available for such purpose. The forms shall specify what evidence the panel will  
129 require in order to process a claim pursuant to subsections (a) and (b) of Code  
130 Section 28-5-112. Such information shall include documentation supporting a claimant's  
131 eligibility for compensation and showing of innocence. If a claim does not contain all  
132 information requested in the form, the panel shall contact the claimant to request this  
133 information, in writing, within 30 days of discovering the information is missing, and  
134 provide the claimant 60 days to supplement his or her claim.

135 (c) Once the panel is in receipt of all information requested under subsection (b) of this  
136 Code section, and if the panel determines the claimant is eligible under subsection (a) of

137 Code Section 28-5-112 for consideration for compensation, the panel shall, within 90 days  
138 of receiving the notice of claim and requested information:

139 (1) Conduct a hearing if it determines a hearing is necessary to make a recommendation  
140 under this part; or

141 (2) Make a provisional judgment on the eligibility of the claimant and the recommended  
142 award and provide its provisional judgment to the claimant. Upon receiving notice of the  
143 panel's provisional judgment, the claimant shall have 14 days to request a hearing before  
144 the panel if the claimant wishes for further review of his or her claim. If the claimant  
145 requests a hearing under this paragraph, the panel shall conduct a hearing within 60 days.

146 (d) In the event a hearing is to be held, the claimant, the district attorney for the circuit in  
147 which the conviction occurred, and the Attorney General shall be notified of the date, time,  
148 and place of the hearing and shall be entitled to present evidence at such hearing.

149 (e) Proceedings before the panel shall be governed by rules established by the panel. A  
150 claimant may be represented by an attorney as he or she shall choose.

151 28-5-114.

152 (a) Upon determining a claimant meets the criteria of subsections (a) and (b) of Code  
153 Section 28-5-112, the panel shall recommend to the board that the claimant be awarded  
154 compensation for wrongful conviction and incarceration.

155 (b) In recommending compensation pursuant to subsection (a) of this Code section, the  
156 panel:

157 (1) May include \$120,000.00 per year, but shall include no less than \$60,000.00 per year,  
158 for each year of wrongful incarceration, provided that a prorated amount shall be  
159 allocated to any partial year served; and

160 (2) May include the claimant's incurred reasonable attorney's fees and other expenses in  
161 connection with all associated criminal and habeas corpus proceedings, obtaining the

162 claimant's discharge from confinement, and filing of a claim for compensation under this  
163 part.

164 (c) In calculating time of incarceration, the panel shall only include time for the charge for  
165 which the claimant is making a claim under this part consistent with the requirements of  
166 Code Section 17-10-11; provided, however, that a claimant shall not be entitled to  
167 compensation under this part for any portion of a sentence spent incarcerated during which  
168 the claimant was also serving a concurrent sentence of incarceration for another crime to  
169 which this part does not apply.

170 (d)(1) Any payment of compensation may be made to or for the benefit of the claimant;  
171 or in the case of the death of the claimant, to or for the benefit of one or more of the heirs  
172 at law of the claimant, or, if the claimant chooses, up to one other person who is not an  
173 heir at law as designated by the claimant.

174 (2) Payment of compensation shall be made in the form of cash.

175 (e) In recommending compensation pursuant to subsection (a) of this Code section, the  
176 panel shall strive for consistency between claimants.

177 (f) The dollar amounts specified in this Code section shall be adjusted annually by an  
178 amount calculated by multiplying such dollar amounts (as adjusted for the preceding year)  
179 by the annual percentage change in the consumer price index, or its successor or  
180 appropriate replacement index, if any, published by the United States Department of Labor  
181 for the preceding calendar year, commencing on July 1, 2023.

182 28-5-115.

183 (a) Within six months, or within a year if a hearing was held, of receiving the claimant's  
184 notice of claim and all information requested under subsection (b) of Code  
185 Section 28-5-113, the panel shall prepare a written recommendation to the board including:

186 (1) A statement of its findings as to whether the claimant has met the requirements of  
187 subsections (a) and (b) of Code Section 28-5-112;

- 188        (2) A statement explaining the panel's calculation of compensable time; and  
189        (3) A statement detailing the amount and forms of compensation.
- 190        (b) The board shall adopt the recommendation of the panel as its own and upon adopting  
191        the recommendation of the panel shall transmit the recommendation and the statement of  
192        the panel to the Chief Justice of the Supreme Court of Georgia within seven days of  
193        receiving it from the panel.
- 194        (c) If the Chief Justice of the Supreme Court of Georgia receives the recommendation of  
195        the board on or before September 1, he or she shall include the compensation  
196        recommended by the board under this part in the amended budget for the Judicial Council  
197        of Georgia for the current fiscal year. If the Chief Justice of the Supreme Court of Georgia  
198        receives the recommendation of the board after September 1, he or she shall include the  
199        compensation recommended by the board under this part in the budget for the Judicial  
200        Council of Georgia for the next fiscal year.
- 201        (d) Any award of compensation made pursuant to this part shall not be:
- 202            (1) Subject to any monetary limitation of damages awarded in civil actions;  
203            (2) Subject to any state income taxes; provided, however, that the award of attorney's  
204            fees shall be subject to taxation; or  
205            (3) Offset by any expense incurred by this state or any political subdivision thereof  
206            related to the claimant's incarceration.
- 207        (e) The General Assembly waives sovereign immunity of this state for the purpose of  
208        authorizing payment of claims against this state pursuant to the authority of this part.
- 209        (f) No award of compensation pursuant to this part shall be disbursed to a claimant who  
210        had his or her judgment of conviction reversed or vacated, or was granted a new trial, and  
211        had the indictment or accusation dismissed or nolle prossed until the time period set forth  
212        in Code Section 17-3-3 has lapsed or the prosecutor has affirmatively declined further  
213        prosecution.

214 28-5-116.

215 (a) If, at the time a claim is made under this part to the panel, the claimant has won a  
216 monetary award against the state or any political subdivision thereof in the final judgment  
217 of a civil action related to the wrongful conviction or has entered into a settlement  
218 agreement with the state or any political subdivision thereof related to the wrongful  
219 conviction, the amount of the award in the action or the amount received in the settlement  
220 agreement, less any sums paid to attorneys for costs in litigating other civil action or  
221 obtaining the settlement agreement, shall be deducted from the sum of money to which the  
222 panel shall usually recommend under this part.

223 (b) If, after the time a claim is made under this part to the panel, the claimant wins a  
224 monetary award against the state or any political subdivision thereof in the final judgment  
225 of a civil action related to the wrongful conviction, the court shall deduct from such  
226 monetary award an amount equal to the sum of money awarded under this part as  
227 compensation for wrongful conviction, less any sums paid to attorneys or for costs in  
228 litigating other civil action or obtaining the settlement agreement."

229

### **PART III**

230

#### **SECTION 3-1.**

231

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is  
232 amended in Chapter 5, relating to financial affairs, by adding a new article to read as follows:

233

#### "ARTICLE 3B

234

28-5-57.

235

As used in this article, the term 'small business' means a business that is independently  
236 owned and operated, is not dominant in its field, and employs 300 or fewer employees.

236

237 28-5-58.

238 (a) Prior to the convening of a session of the General Assembly, the Governor, the  
239 President of the Senate, or any member of the General Assembly may request that the  
240 Office of Planning and Budget and the Department of Audits and Accounts prepare a small  
241 business impact analysis of any bill. Following the convening of a session of the General  
242 Assembly, a small business impact analysis for a bill may only be requested by the  
243 Governor, the President of the Senate, the Speaker of the House of Representatives, or the  
244 chairperson of a committee to which such bill has been assigned. A small business impact  
245 analysis shall estimate the economic costs and benefits that such bill may have on small  
246 businesses in the state and shall include, if any, the estimated impacts on:

- 247 (1) The costs of providing goods and services;  
248 (2) The availability and cost of workers;  
249 (3) Industry competition or consumer choice; and  
250 (4) Potential costs of compliance.

251 (b) If unable to provide a complete written small business impact analysis, the Office of  
252 Planning and Budget and the Department of Audits and Accounts shall provide a written  
253 explanation of the impact in general terms and need not quantify the specific impact.

254 (c) A small business impact analysis requested pursuant to subsection (a) of this Code  
255 section shall be prepared and submitted by the director of the Office of Planning and  
256 Budget and the state auditor within 30 days after receipt of the request or, if requested  
257 during a session of the General Assembly, within ten days after receipt of such request. A  
258 copy of the small business impact analysis shall be submitted to:

- 259 (1) The Governor;  
260 (2) The President of the Senate;  
261 (3) The Speaker of the House of Representatives;

262 (4) The chairperson of the committee to which the bill that is the subject of the small  
263 business impact analysis is assigned in the house of the General Assembly in which the  
264 bill was introduced;

265 (5) The sponsor of the bill that is the subject of the small business impact analysis;

266 (6) The individual who requested the small business impact analysis, if such individual  
267 is not listed in paragraphs (1) through (5) of this subsection;

268 (7) The Secretary of the Senate; and

269 (8) The Clerk of the House of Representatives.

270 (d)(1) If a bill that is the subject of a small business impact analysis prepared pursuant  
271 to subsection (a) of this Code section is amended or is proposed to be amended, the  
272 Office of Planning and Budget and Department of Audits and Accounts shall revise such  
273 small business impact analysis to account for the amended version of such bill upon the  
274 request of:

275 (A) The Governor, the President of the Senate, or any member of the General  
276 Assembly, if such request is made prior to the convening of a session of the General  
277 Assembly; or

278 (B) The Governor, the President of the Senate, the Speaker of the House of  
279 Representatives, or the chairperson of a committee to which such bill has been  
280 assigned, if such request is made after the convening of a session of the General  
281 Assembly.

282 (2) A revised small business impact analysis requested pursuant to paragraph (1) of this  
283 subsection shall be prepared and submitted by the director of the Office of Planning and  
284 Budget and the state auditor in the same manner as the original small business impact  
285 analysis pursuant to subsection (c) of this Code section.

286 (e)(1) The Office of Planning and Budget and the Department of Audits and Accounts  
287 may contract with a person or persons independent of state government to prepare any

288 small business impact analysis or revised small business impact analysis requested  
289 pursuant to this Code section.

290 (2) When preparing a small business impact analysis or revised small business impact  
291 analysis requested pursuant to this Code section, the Office of Planning and Budget, the  
292 Department of Audits and Accounts, and any person or persons contracted with under  
293 paragraph (1) of this subsection may consult with other units of state government, units  
294 of local government, and business, industry, and community stakeholders impacted by  
295 or having an interest in the bill that is the subject of such small business impact analysis.

296 (f) Any small business impact analysis or revised small business impact analysis prepared  
297 for a bill pursuant to this Code section shall be attached to the bill by the Secretary of the  
298 Senate or the Clerk of the House of Representatives and shall be read to the members of  
299 each respective house of the General Assembly at the third reading of such bill. In  
300 addition, a copy of each small business impact analysis or revised small business impact  
301 analysis prepared for a bill pursuant to this Code section shall be distributed to each  
302 member of the respective house of the General Assembly before which such bill is pending  
303 prior to any such bill being voted upon by such house of the General Assembly.

304 28-5-59.

305 Nothing in this article shall be construed to require any degree of formality of proof of  
306 compliance with any requirement of this article, and any enrolled bill shall be conclusively  
307 presumed to have been enacted in compliance with the requirements of this article."

308 **SECTION 3-2.**

309 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
310 in Code Section 50-13-4, relating to procedural requirements for adoption, amendment, or  
311 repeal of rules, emergency rules, limitation on action to contest rule, and legislative override,  
312 by revising subsection (a) as follows:

313 "(a) Prior to the adoption, amendment, or repeal of any rule, other than interpretive rules  
314 or general statements of policy, the agency shall:

315 (1) Give at least 30 days' notice of its intended action. The notice shall include an exact  
316 copy of the proposed rule and a synopsis of the proposed rule. The synopsis shall be  
317 distributed with and in the same manner as the proposed rule. The synopsis shall contain  
318 a statement of the purpose and the main features of the proposed rule, and, in the case of  
319 a proposed amendatory rule, the synopsis also shall indicate the differences between the  
320 existing rule and the proposed rule. The notice shall also include the exact date on which  
321 the agency shall consider the adoption of the rule and shall include the time and place in  
322 order that interested persons may present their views thereon. The notice shall also  
323 contain a citation of the authority pursuant to which the rule is proposed for adoption and,  
324 if the proposal is an amendment or repeal of an existing rule, the rule shall be clearly  
325 identified. The notice shall be mailed to all persons who have requested in writing that  
326 they be placed upon a mailing list which shall be maintained by the agency for advance  
327 notice of its rule-making proceedings and who have tendered the actual cost of such  
328 mailing as from time to time estimated by the agency;

329 (2) Afford to all interested persons reasonable opportunity to submit data, views, or  
330 arguments, orally or in writing. In the case of substantive rules, opportunity for oral  
331 hearing must be granted if requested by 25 persons who will be directly affected by the  
332 proposed rule, by a governmental subdivision, or by an association having not less  
333 than 25 members. The agency shall consider fully all written and oral submissions  
334 respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so  
335 by an interested person either prior to adoption or within 30 days thereafter, shall issue  
336 a concise statement of the principal reasons for and against its adoption and incorporate  
337 therein its reason for overruling the consideration urged against its adoption;

338 (3) In the formulation and adoption of any rule which will have an economic impact on  
339 businesses in the state, reduce the economic impact of the rule on small businesses which

340 are independently owned and operated, are not dominant in their field, and  
 341 employ ~~100~~ 300 employees or ~~less~~ fewer by implementing one or more of the following  
 342 actions when it is legal and feasible in meeting the stated objectives of the statutes which  
 343 are the basis of the proposed rule:

344 (A) Establish ~~differing~~ reduced compliance or reporting requirements ~~or~~ and differing  
 345 timetables for small businesses;

346 (B) Clarify, consolidate, or simplify the compliance and reporting requirements under  
 347 the rule for small businesses;

348 (C) Establish performance rather than design standards for small businesses; or

349 (D) Exempt small businesses from any or all requirements of the rules;

350 (4) In the formulation and adoption of any rule which places administrative burdens on  
 351 charitable organizations in this state, including, but not limited to, any rule that would  
 352 require any new or expanded filing or reporting requirements or that would limit the  
 353 ability of charitable organizations to solicit or collect funds, ~~the agency or official shall:~~

354 (A) Absent the showing of a compelling state interest, not impose any annual filing or  
 355 reporting requirements on an organization regulated or specifically exempted from  
 356 regulation under Chapter 17 of Title 43, the 'Georgia Charitable Solicitations Act of  
 357 1988,' that are more burdensome than the requirements authorized by applicable law,  
 358 and any such filing or reporting requirements shall be narrowly tailored to achieve such  
 359 compelling state interest. The requirements of this subparagraph shall not apply to the  
 360 state's direct spending programs; and

361 (B) Email the notice provided for in paragraph (1) of this subsection to each  
 362 chairperson of any standing committee in each house as shown on the General  
 363 Assembly's public website.

364 For purposes of this paragraph, the term 'charitable organization' means a nonprofit  
 365 charitable organization which is exempt from taxation under the provisions of  
 366 Section 501(c)(3) of the United States Internal Revenue Code; and

367 (5) In the formulation and adoption of any rule, ~~an agency shall~~ choose an alternative  
368 that does not impose excessive regulatory costs on any regulated person or entity which  
369 costs could be reduced by a less expensive alternative that fully accomplishes the stated  
370 objectives of the statutes which are the basis of the proposed rule.”

371 **PART IV**  
372 **SECTION 4-1.**

373 This Act shall become effective upon its approval by the Governor or upon its becoming law  
374 without such approval.

375 **SECTION 4-2.**  
376 All laws and parts of laws in conflict with this Act are repealed.