

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1470 Session of 2023

INTRODUCED BY YOUNG, HILL-EVANS, GIRAL, GUENST, CEPHAS, MADDEN, KINSEY, KHAN, PARKER, SANCHEZ, KRAJEWSKI, GREEN, KINKEAD, FRANKEL, D. WILLIAMS AND MAYES, JUNE 21, 2023

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 3, 2023

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61
2 (Prisons and Parole) of the Pennsylvania Consolidated
3 Statutes, in limitation of time, further providing for six
4 months limitation; in matters affecting government units,
5 further providing for exceptions to sovereign immunity, for
6 limitations on damages and for exceptions to governmental
7 immunity and providing for claims for compensation for
8 wrongful conviction; in general administration, providing for
9 services after wrongful conviction; and, in Pennsylvania
10 Board of Probation and Parole, further providing for powers
11 and duties of department.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Section 5522(c) of Title 42 of the Pennsylvania~~ <--
15 ~~Consolidated Statutes is amended to read:~~
16 ~~§ 5522. Six months limitation.~~

17 * * *

18 ~~(c) Exception. This section shall not apply to any civil~~
19 ~~action or proceeding brought under section 8522(b)(10) or (11)~~
20 ~~(relating to exceptions to sovereign immunity) or 8542(b)(9) or~~
21 ~~(10) (relating to exceptions to governmental immunity).~~

1 ~~Section 1.1. Section 8522 (b) of Title 42 is amended by~~
2 ~~adding a paragraph to read:~~

3 ~~§ 8522. Exceptions to sovereign immunity.~~

4 ~~* * *~~

5 ~~(b) Acts which may impose liability. The following acts by~~
6 ~~a Commonwealth party may result in the imposition of liability~~
7 ~~on the Commonwealth and the defense of sovereign immunity shall~~
8 ~~not be raised to claims for damages caused by:~~

9 ~~* * *~~

10 ~~(11) Wrongful conviction. A wrongful conviction for~~
11 ~~which claims may be brought under section 8583 (relating to~~
12 ~~petition for compensation).~~

13 ~~Section 2. Section 8528 (d) of Title 42 is amended to read:~~

14 ~~§ 8528. Limitations on damages.~~

15 ~~* * *~~

16 ~~(d) Exclusions. This section shall not apply to damages~~
17 ~~awarded under section 8522 (b) (10) or (11).~~

18 ~~Section 3. Section 8542 (b) of Title 42 is amended by adding~~
19 ~~a paragraph to read:~~

20 ~~§ 8542. Exceptions to governmental immunity.~~

21 ~~* * *~~

22 ~~(b) Acts which may impose liability. The following acts by~~
23 ~~a local agency or any of its employees may result in the~~
24 ~~imposition of liability on a local agency:~~

25 ~~* * *~~

26 ~~(10) Wrongful conviction. A wrongful conviction for~~
27 ~~which a claim may be brought under section 8583 (relating to~~
28 ~~petition for compensation).~~

29 ~~* * *~~

30 ~~Section 4. Chapter 85 of Title 42 is amended by adding a~~

1 ~~subchapter to read:~~

2 SUBCHAPTER D

3 CLAIMS FOR COMPENSATION FOR WRONGFUL CONVICTION

4 Sec.

5 8581. Scope of subchapter.

6 8582. Eligibility to seek compensation for wrongful conviction.

7 8583. Petition for compensation.

8 8584. Compensation.

9 8585. Notice to Treasury.

10 8586. Statute of limitations.

11 § 8581. Scope of subchapter.

12 This subchapter relates to the provision of compensation for
13 a wrongful conviction.

14 § 8582. Eligibility to seek compensation for wrongful
15 conviction.

16 (a) General rule. An action may be brought under this
17 subchapter to seek compensation for the wrongful conviction of
18 an individual. The claim may be brought by:

19 (1) An individual who was convicted of one or more
20 crimes for which the individual was subsequently incarcerated
21 and has served all or any part of the sentence and one of the
22 following applies:

23 (i) The conviction was dismissed, overturned,
24 reversed or vacated on direct or collateral review and
25 the charges were not refiled.

26 (ii) The conviction was dismissed, overturned,
27 reversed or vacated on direct or collateral review and
28 the individual is acquitted after retrial.

29 (iii) Both of the following apply:

30 (A) The conviction was overturned, reversed or

1 ~~vacated on direct or collateral review and the~~
2 ~~individual subsequently entered an Alford plea or~~
3 ~~plea of no contest when otherwise eligible to seek~~
4 ~~retrial.~~

5 ~~(B) The individual alleges prima facie evidence~~
6 ~~of actual innocence of the crime which resulted in~~
7 ~~the conviction.~~

8 ~~(iv) Both of the following apply:~~

9 ~~(A) A full pardon has been issued by the~~
10 ~~Governor.~~

11 ~~(B) The individual alleges prima facie evidence~~
12 ~~of actual innocence of the crime for which the pardon~~
13 ~~was granted.~~

14 ~~(2) The heirs of an individual meeting the criteria~~
15 ~~under paragraph (1)(i), (ii), (iii) or (iv), if such an~~
16 ~~individual is deceased, notwithstanding if the heirs are~~
17 ~~residents of this Commonwealth.~~

18 ~~(b) Ineligibility for compensation. A claimant may not seek~~
19 ~~compensation under this subchapter if any of the following~~
20 ~~apply:~~

21 ~~(1) The individual was an accomplice, coconspirator or~~
22 ~~an accessory in the commission of the crime for which the~~
23 ~~individual was originally convicted and meaningfully~~
24 ~~participated in the crime.~~

25 ~~(2) The individual was also serving a sentence for~~
26 ~~another crime for which the individual was lawfully~~
27 ~~incarcerated for any period of incarceration for which the~~
28 ~~individual wishes to seek compensation.~~

29 ~~(3) The individual committed perjury or witness~~
30 ~~intimidation or fabricated evidence at the original trial. A~~

~~1 confession or admission later found to be false or a guilty
2 plea, Alford plea or a plea of no contest shall not
3 constitute perjury or fabrication of evidence.~~

~~4 (4) The individual was convicted of a lesser included
5 felony arising from the same set of facts as the crime for
6 which the individual was originally convicted. A subsequent
7 Alford plea or plea of no contest based on the same set of
8 facts as the crime for which the individual was originally
9 convicted does not bar a claimant from filing a petition.~~

~~10 § 8583. Petition for compensation.~~

~~11 (a) Generally. A petition for compensation shall be in a
12 form and manner determined by the Supreme Court. All petitions
13 shall be filed and heard by Commonwealth Court. A proceeding
14 before Commonwealth Court shall be governed by rules established
15 by Commonwealth Court, which shall emphasize informality to the
16 greatest extent possible. A claimant shall not be required to be
17 represented or accompanied by an attorney.~~

~~18 (b) Contents of petition. To present a claim for
19 compensation for wrongful conviction, the petition shall include
20 a statement of claim establishing the following:~~

~~21 (1) The individual meets one or more of the eligibility
22 criteria listed under section 8582 (relating to eligibility
23 to seek compensation for wrongful conviction).~~

~~24 (2) The individual was sentenced to incarceration, or to
25 confinement in an institution under section 6403 (relating to
26 court ordered involuntary treatment), based on the wrongful
27 conviction and has served all or any part of that sentence.~~

~~28 (3) The specific dates for which the individual is
29 seeking compensation, subject to any excludable periods.~~

~~30 (4) The individual does not have ineligibility factors~~

1 ~~as described under section 8582.~~

2 ~~(5) The specific compensation the petitioner is~~
3 ~~requesting if the petition were granted.~~

4 ~~(6) Any other relevant evidence supporting the~~
5 ~~claimant's actual innocence of the crime for which the~~
6 ~~claimant was incarcerated, which may include:~~

7 ~~(i) The filings under Subchapter B of Chapter 95~~
8 ~~(relating to post conviction relief) from the case~~
9 ~~showing that the claimant meets the criteria under~~
10 ~~section 8582.~~

11 ~~(ii) The court transcripts from the case showing~~
12 ~~that the claimant meets the criteria under section 8582.~~

13 ~~(iii) An explanation as to why the claimant should~~
14 ~~be considered eligible to seek compensation.~~

15 ~~(c) Service. Upon receipt of a filed petition, the court~~
16 ~~shall forward a copy of the petition to the prosecuting entity~~
17 ~~which may be either:~~

18 ~~(1) the district attorney in the district where the~~
19 ~~individual was prosecuted; or~~

20 ~~(2) the Office of Attorney General if the individual was~~
21 ~~prosecuted by the Office of Attorney General.~~

22 ~~(d) Rebuttable presumption. A complete and filed petition~~
23 ~~complying with subsection (b) as determined by the court shall~~
24 ~~create a rebuttable presumption of eligibility for compensation~~
25 ~~under this subchapter. The prosecuting entity must prove by~~
26 ~~clear and convincing evidence that the petitioner is ineligible~~
27 ~~under this subchapter. Upon receipt of service, the prosecuting~~
28 ~~entity shall have 20 days to respond to the petition, stating~~
29 ~~either:~~

30 ~~(1) The prosecuting entity agrees that the petitioner~~

1 ~~meets the eligibility for compensation and declines to oppose~~
2 ~~the claim.~~

3 ~~(2) The prosecuting entity disagrees that the petitioner~~
4 ~~meets the eligibility for compensation and requests a hearing~~
5 ~~to present evidence to oppose the claim.~~

6 ~~(c) Hearings.~~

7 ~~(1) If a hearing is requested by the prosecuting entity,~~
8 ~~the court shall schedule a hearing as soon as possible,~~
9 ~~provided the petitioner and the prosecuting entity have at~~
10 ~~least 15 days' notice.~~

11 ~~(2) If the court determines a hearing is necessary to~~
12 ~~determine a petitioner's eligibility and entitlement to~~
13 ~~compensation, the court may schedule a hearing if the~~
14 ~~petitioner and the prosecuting entity have at least 15 days'~~
15 ~~notice.~~

16 ~~(3) If the court denies a petition without having held a~~
17 ~~hearing, the court shall provide notice to the petitioner and~~
18 ~~the prosecuting entity that the petitioner has 15 days from~~
19 ~~the date of the notice to request a hearing. Upon receipt of~~
20 ~~a petitioner's request, the court shall schedule a hearing as~~
21 ~~soon as possible, if the petitioner and the prosecuting~~
22 ~~entity have at least 15 days' notice.~~

23 ~~(4) Following any hearing on a petition for compensation~~
24 ~~where evidence is presented, the court shall determine~~
25 ~~whether the petitioner was wrongfully convicted, which means:~~

26 ~~(i) The petitioner meets one or more of the~~
27 ~~eligibility criteria under section 8582(a)(1).~~

28 ~~(ii) The petitioner does not have any ineligibility~~
29 ~~factors under section 8582(b).~~

30 ~~(iii) The court is satisfied of the petitioner's~~

~~actual innocence of the crime for which the petitioner was incarcerated.~~

~~(5) Following any hearing on a petition for compensation, the court shall state its finding for the record. A petitioner who is determined to have been wrongfully convicted as described in paragraph (4) shall be entitled to compensation under section 8584 (relating to compensation).~~

~~(f) Granting petition. The court shall grant the petition on the merits of the claim if unopposed by the prosecuting entity and the court is satisfied that the petitioner meets the eligibility requirements and is not subject to the ineligibility factors of section 8582. If a hearing was held, the court shall state its findings of the petitioner's eligibility and entitlement to compensation in its order granting or denying the petition. In an order granting the petition, the court shall also order compensation under section 8584.~~

~~§ 8584. Compensation.~~

~~(a) Granting of petition. If Commonwealth Court grants a petition and enters an order in favor of the petitioner:~~

~~(1) The court shall order the following:~~

~~(i) Statutory noneconomic damages, as adjusted by subsection (c), of \$100,000 for each year of imprisonment or involuntary treatment while awaiting a sentence of death.~~

~~(ii) Statutory noneconomic damages, as adjusted by subsection (c), of \$75,000 for each year of imprisonment or involuntary treatment for any other sentence.~~

~~(iii) Statutory noneconomic damages, as adjusted by subsection (c), of \$50,000 for each year spent on parole~~

1 ~~or probation.~~

2 ~~(2) The court may order the following if requested by~~
3 ~~the petitioner:~~

4 ~~(i) Reimbursement of unreimbursed costs, fines, fees~~
5 ~~or surcharges imposed on the petitioner as a result of~~
6 ~~the conviction which were paid by or on behalf of the~~
7 ~~petitioner.~~

8 ~~(ii) Reimbursement of unreimbursed restitution paid~~
9 ~~by the petitioner because of the conviction.~~

10 ~~(iii) Compensation for reasonable reintegrative~~
11 ~~services and mental and physical health care costs~~
12 ~~incurred by the petitioner for the period between the~~
13 ~~petitioner's release from incarceration or involuntary~~
14 ~~treatment and the date of the petitioner's award.~~

15 ~~(iv) Separation services and programs available to~~
16 ~~any other individual leaving incarceration.~~

17 ~~(v) Reasonable attorney fees for obtaining the~~
18 ~~dismissal, overturning, reversal or vacation of the~~
19 ~~underlying conviction, calculated at 10% of the damage~~
20 ~~awarded plus expenses. Exclusive of expenses, the fees~~
21 ~~may not exceed \$75,000, as adjusted annually to account~~
22 ~~for inflation from the effective date of this section,~~
23 ~~unless the court approves an additional amount for good~~
24 ~~cause. The fees may not be deducted from the compensation~~
25 ~~awarded to the claimant nor may counsel receive~~
26 ~~additional fees from the client for this matter.~~

27 ~~(vi) Reasonable attorney fees and expenses for~~
28 ~~obtaining compensation under this section. The fees may~~
29 ~~not be deducted from the compensation awarded to the~~
30 ~~claimant, nor may counsel receive additional fees from~~

1 ~~the client for this matter.~~

2 ~~(vii) Compensation to individuals entitled to child~~
3 ~~support payments owed by the petitioner that became due~~
4 ~~and interest on child support arrearages that accrued~~
5 ~~during the time the petitioner was wrongfully~~
6 ~~incarcerated but were not paid. The compensation shall be~~
7 ~~provided out of the total statutory noneconomic damages~~
8 ~~awarded to the petitioner under this section.~~

9 ~~(b) Statutory noneconomic damages. If statutory noneconomic~~
10 ~~damages are awarded, the following shall apply:~~

11 ~~(1) The payment of damages shall be prorated for partial~~
12 ~~years of imprisonment.~~

13 ~~(2) The payment of damages shall be to or for the~~
14 ~~benefit of the petitioner as elected by the petitioner.~~

15 ~~(3) For a deceased individual who was wrongfully~~
16 ~~convicted, the payment of damages may be to or for the~~
17 ~~benefit of the heirs of the deceased individual. Damages~~
18 ~~awarded shall be distributed pursuant to a valid will or~~
19 ~~trust or, if no valid will or trust exists, to the heirs in~~
20 ~~the proportion the heirs would receive the personal estate of~~
21 ~~the decedent in the case of intestacy. Damages awarded may~~
22 ~~not be paid to creditors of the deceased individual under the~~
23 ~~statutes of this Commonwealth.~~

24 ~~(4) The payment of damages may be in a lump sum or as an~~
25 ~~annuity as chosen by the petitioner.~~

26 ~~(5) Compensation awarded under this subchapter shall not~~
27 ~~be considered income for the purpose of computing the tax~~
28 ~~imposed under Article III of the act of March 4, 1971 (P.L.6,~~
29 ~~No.2), known as the Tax Reform Code of 1971.~~

30 ~~(6) The petitioner shall not receive compensation for~~

~~any period during which the petitioner was also serving a sentence for another crime for which the petitioner was lawfully incarcerated.~~

~~(c) Adjustment of statutory noneconomic damages. Beginning in 2024, and every year thereafter, the Court Administrator of Pennsylvania shall determine the percentage increase or decrease in the cost of living for the previous calendar year, based on changes in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area as published by the Bureau of Labor Statistics of the United States Department of Labor. The increases or decreases shall be made in accordance with the following:~~

~~(1) On or before July 1 of the year in which the Court Administrator of Pennsylvania makes the determination required under this subsection, the Court Administrator of Pennsylvania shall adjust the amounts prescribed under subsection (a) (1) and (2) for the following calendar year by multiplying the amounts applicable to the calendar year in which the adjustment is made by the percentage amount determined under this subsection.~~

~~(2) The adjustment may not exceed 3% for any year.~~

~~(3) The Court Administrator of Pennsylvania shall round the adjusted limitation amount to the nearest \$100. The unrounded amount shall be used to calculate the adjustments to the amounts in subsequent calendar years.~~

~~(4) The adjusted amounts shall become effective on July 1 of the year in which the adjustment is made and apply to claims filed under this section on or after July 1 of that year and before July 1 of the subsequent year.~~

~~(5) The Court Administrator of Pennsylvania shall submit~~

~~notice of the adjusted amounts to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.~~

~~(d) Civil offset and reimbursement. If the petitioner receives a monetary award against the Commonwealth or any political subdivision of the Commonwealth in a civil action for wrongful conviction or imprisonment for the crimes at issue in the petition or has entered into a settlement agreement with the Commonwealth or any political subdivision of the Commonwealth for wrongful conviction or imprisonment for the crimes at issue in the petition, the following shall apply:~~

~~(1) The acceptance by the claimant of a judicial award, compromise or settlement, other than an award for wrongful conviction, shall be in writing and shall, except if procured by fraud, be final and conclusive on the claimant and completely bar any further action by the claimant against the Commonwealth on the same subject matter.~~

~~(2) The total award of statutory noneconomic damages under this subchapter shall be reduced by the sum of the monetary award received in the civil action or settlement agreement, less attorney fees, expenses and out of pocket costs paid by the petitioner in connection with obtaining the civil action award or settlement.~~

~~(3) If the petitioner has already received compensation under this subchapter and subsequently receives a monetary award in a civil action or settlement, the petitioner shall reimburse the Commonwealth for the sum of the statutory noneconomic damages awarded under this section, less attorney fees, expenses and out of pocket costs paid by the petitioner in obtaining the civil action award or settlement, up to the~~

1 ~~full amount awarded under the petition.~~

2 ~~(4) Expenses incurred by the Commonwealth or any of its~~
3 ~~agencies or political subdivisions, including expenses~~
4 ~~incurred to secure the petitioner's custody or involuntary~~
5 ~~treatment under section 6403 (relating to court ordered~~
6 ~~involuntary treatment), or to feed, clothe or provide medical~~
7 ~~services for the petitioner while imprisoned and the value of~~
8 ~~any goods or services provided to the petitioner under 61~~
9 ~~Pa.C.S. Ch. 11 Subch. E (relating to services after wrongful~~
10 ~~conviction) shall not be subject to reimbursement under this~~
11 ~~subsection.~~

12 ~~(e) Records. Immediately following the grant of a petition,~~
13 ~~the criminal history record information related to the crimes~~
14 ~~for which the petition was granted shall be unavailable~~
15 ~~consistent with the provisions related to limited access of~~
16 ~~criminal history record information under 18 Pa.C.S. §§ 9121~~
17 ~~(relating to general regulations) and 9122.2 (relating to clean~~
18 ~~slate limited access) and shall have the same effect as provided~~
19 ~~for under 18 Pa.C.S. § 9122.5 (relating to effects of expunged~~
20 ~~records and records subject to limited access). The court shall~~
21 ~~notify the petitioner of the right to request a copy of the~~
22 ~~complete record of conviction and an automatic expungement of~~
23 ~~the related criminal history record information. The petitioner~~
24 ~~shall have two years from the date of the grant of the petition~~
25 ~~to request a copy of the conviction record and an automatic~~
26 ~~expungement. The petitioner may request a copy of the record in~~
27 ~~a manner determined by the court.~~

28 ~~§ 8585. Notice to Treasury.~~

29 ~~Following a ruling by Commonwealth Court on a claim brought~~
30 ~~under this subchapter, the court shall provide a copy of the~~

1 ~~order to the State Treasurer with a statement of the total~~
2 ~~compensation due and owing to the petitioner and any other~~
3 ~~person. Upon receipt of the notice, the State Treasurer's office~~
4 ~~shall contact the petitioner and counsel for the petitioner to~~
5 ~~make arrangements for payment.~~

6 ~~§ 8586. Statute of limitations.~~

7 ~~(a) Filing. Except as provided under subsection (b), an~~
8 ~~action brought under this subchapter to seek compensation for~~
9 ~~the wrongful conviction of an individual must be filed within~~
10 ~~six years of the date of release from incarceration or~~
11 ~~involuntary treatment or the reversal of the conviction,~~
12 ~~whichever is later. Any action by the Commonwealth challenging~~
13 ~~or appealing the grant of judicial relief shall toll the six~~
14 ~~year period.~~

15 ~~(b) Commencement of action. Notwithstanding subsection (a)~~
16 ~~or any other provision of law, an individual convicted,~~
17 ~~incarcerated and released from custody prior to the effective~~
18 ~~date of this section must commence an action under this~~
19 ~~subchapter no later than two years after the effective date of~~
20 ~~this section.~~

21 ~~Section 5. Chapter 11 of Title 61 is amended by adding a~~
22 ~~subchapter to read:~~

23 SUBCHAPTER E

24 SERVICES AFTER WRONGFUL CONVICTION

25 Sec.

26 1181. Scope of subchapter.

27 1182. (Reserved).

28 1183. Eligibility for services after wrongful conviction.

29 1184. Services.

30 1185. Regulations and rules.

1 ~~§ 1181. Scope of subchapter.~~

2 ~~This subchapter relates to the provision of services to a~~
3 ~~wrongfully convicted individual after release.~~

4 ~~§ 1182. (Reserved).~~

5 ~~§ 1183. Eligibility for services after wrongful conviction.~~

6 ~~An individual released from incarceration in a State~~
7 ~~correctional institution or from court ordered involuntary~~
8 ~~treatment who meets the eligibility criteria under 42 Pa.C.S. §~~
9 ~~8582(a)(1) (relating to eligibility to seek compensation for~~
10 ~~wrongful conviction) shall be entitled to and the Commonwealth~~
11 ~~shall provide each service under section 1184 (relating to~~
12 ~~services).~~

13 ~~§ 1184. Services.~~

14 ~~The Commonwealth shall provide the following services to~~
15 ~~eligible individuals under section 1183 (relating to eligibility~~
16 ~~for services after wrongful conviction):~~

17 ~~(1) Services and programs at community corrections~~
18 ~~centers and group homes under 37 Pa. Code § 94.3 (relating to~~
19 ~~procedures for participation in prerelease programs).~~

20 ~~(2) General assistance under 55 Pa. Code § 141.61~~
21 ~~(relating to policy).~~

22 ~~(3) Medical assistance for categorically needy, under~~
23 ~~the following:~~

24 ~~(i) 55 Pa. Code § 165.41 (relating to eligibility~~
25 ~~for special allowances for supportive services).~~

26 ~~(ii) 55 Pa. Code § 165.42 (relating to advance~~
27 ~~provision of special allowances for supportive services).~~

28 ~~(iii) 55 Pa. Code § 165.43 (relating to requests for~~
29 ~~special allowances for supportive services and time~~
30 ~~frames for eligibility determinations).~~

1 ~~(iv) 55 Pa. Code § 165.44 (relating to verification~~
2 ~~for special allowances for supportive services).~~

3 ~~(v) 55 Pa. Code § 165.45 (relating to time frames~~
4 ~~for authorization of special allowances for supportive~~
5 ~~services).~~

6 ~~(vi) 55 Pa. Code § 165.46 (relating to types of~~
7 ~~special allowances for supportive services).~~

8 ~~§ 1185. Regulations and rules.~~

9 ~~(a) Temporary regulations.~~

10 ~~(1) Notwithstanding any other provision of law, in order~~
11 ~~to facilitate the prompt implementation of this act, the~~
12 ~~department, the Department of Human Services and the Board of~~
13 ~~Pardons may issue temporary regulations. The following apply:~~

14 ~~(i) The department shall issue the temporary~~
15 ~~regulations within six months of the effective date of~~
16 ~~this subsection. Regulations adopted after the six month~~
17 ~~period shall be promulgated as provided by statute.~~

18 ~~(ii) Notice of the temporary regulations shall be~~
19 ~~transmitted to the Legislative Reference Bureau for~~
20 ~~publication in the next available issue of the~~
21 ~~Pennsylvania Bulletin.~~

22 ~~(iii) The department shall post the temporary~~
23 ~~regulations on its publicly accessible Internet website.~~

24 ~~(iv) The temporary regulations shall expire no later~~
25 ~~than two years following publication of the temporary~~
26 ~~regulations in the Pennsylvania Bulletin.~~

27 ~~(2) The temporary regulations under paragraph (1) shall~~
28 ~~be exempt from the following:~~

29 ~~(i) Section 612 of the act of April 9, 1929~~
30 ~~(P.L.177, No.175), known as The Administrative Code of~~

1 ~~1929.~~

2 ~~(ii) Sections 201, 202, 203, 204 and 205 of the act~~
3 ~~of July 31, 1968 (P.L.769, No.240), referred to as the~~
4 ~~Commonwealth Documents Law.~~

5 ~~(iii) Sections 204(b) and 301(10) of the act of~~
6 ~~October 15, 1980 (P.L.950, No.164), known as the~~
7 ~~Commonwealth Attorneys Act.~~

8 ~~(iv) The act of June 25, 1982 (P.L.633, No.181),~~
9 ~~known as the Regulatory Review Act.~~

10 ~~(b) Contents of regulations.~~

11 ~~(1) Within 120 days of the effective date of this~~
12 ~~subsection, the department shall promulgate temporary~~
13 ~~regulations to ensure that the Department of Human Services~~
14 ~~receives identifying information for each individual who is~~
15 ~~eligible for services under section 1183 and to ensure that~~
16 ~~each individual is provided with:~~

17 ~~(i) An application form for benefits under this~~
18 ~~section.~~

19 ~~(ii) An emergency stipend.~~

20 ~~(iii) Notice of the ability to seek compensation as~~
21 ~~provided under 42 Pa.C.S. Ch. 85 Subch. D (relating to~~
22 ~~claims for compensation for wrongful conviction).~~

23 ~~(2) Within 120 days of the effective date of this~~
24 ~~subsection, the Department of Human Services shall promulgate~~
25 ~~temporary regulations to implement the provision of benefits~~
26 ~~under this section. The regulations shall include:~~

27 ~~(i) Creation of an application for benefits.~~

28 ~~(ii) Designation of an individual to process~~
29 ~~application forms for benefits that are received by the~~
30 ~~Department of Human Services, including ensuring that a~~

~~determination of eligibility for benefits does not preclude the Commonwealth from opposing a determination of eligibility for compensation under 42 Pa.C.S. § 8583 (relating to petition for compensation).~~

~~(iii) Drafting of procedures and guidelines for making determinations on applications.~~

~~(iv) Requiring determinations to be made within 14 days of receipt of an application.~~

~~(3) Within 120 days of the effective date of this subsection, the Board of Pardons shall promulgate temporary regulations to ensure that the Department of Human Services receives identifying information for each individual who, after having been released from incarceration or court ordered involuntary treatment, is pardoned of the charges underlying the incarceration and to ensure that each individual is provided with:~~

~~(i) An application form for benefits under this section.~~

~~(ii) An emergency stipend.~~

~~(iii) Notice of the ability to seek compensation as provided under 42 Pa.C.S. Ch. 85 Subch. D.~~

~~(c) Permanent regulations. Prior to the expiration of the temporary regulations, the department, the Department of Human Services and the Board of Pardons shall propose for approval permanent regulations as provided by statute. The proposed permanent regulations shall be consistent with subsection (b) and may be the same as the temporary regulations.~~

~~(d) Rules of court administration. Within 120 days of the effective date of this subsection, the Court Administrator of Pennsylvania shall propose rules of judicial administration for~~

1 ~~adoption under the Pennsylvania Rules of Judicial Administration~~
2 ~~to ensure that the Department of Human Services receives~~
3 ~~identifying information for each wrongfully convicted individual~~
4 ~~as may be available in one of the unified judicial system case~~
5 ~~management systems.~~

6 Section 6. ~~Section 6171(a) of Title 61 is amended by adding~~
7 ~~a paragraph to read:~~

8 ~~§ 6171. Powers and duties of department.~~

9 ~~(a) Powers and duties. The department shall have the~~
10 ~~following powers and duties:~~

11 * * *

12 ~~(24) Assist the transition of an individual who has been~~
13 ~~exonerated and ensure access to the services and programs~~
14 ~~provided to individuals paroled under section 6132 (relating~~
15 ~~to specific powers of board involving offenders).~~

16 * * *

17 ~~Section 7. This act shall take effect in 60 days.~~

18 SECTION 1. SECTION 5522(C) OF TITLE 42 OF THE PENNSYLVANIA <--
19 CONSOLIDATED STATUTES IS AMENDED TO READ:

20 § 5522. SIX MONTHS LIMITATION.

21 * * *

22 (C) EXCEPTION.--THIS SECTION SHALL NOT APPLY TO ANY CIVIL
23 ACTION OR PROCEEDING BROUGHT UNDER SECTION 8522(B) (10) OR (11)
24 (RELATING TO EXCEPTIONS TO SOVEREIGN IMMUNITY) OR 8542(B) (9) OR
25 (10) (RELATING TO EXCEPTIONS TO GOVERNMENTAL IMMUNITY).

26 SECTION 1.1. SECTION 8522(B) OF TITLE 42 IS AMENDED BY
27 ADDING A PARAGRAPH TO READ:

28 § 8522. EXCEPTIONS TO SOVEREIGN IMMUNITY.

29 * * *

30 (B) ACTS WHICH MAY IMPOSE LIABILITY.--THE FOLLOWING ACTS BY

1 A COMMONWEALTH PARTY MAY RESULT IN THE IMPOSITION OF LIABILITY
2 ON THE COMMONWEALTH AND THE DEFENSE OF SOVEREIGN IMMUNITY SHALL
3 NOT BE RAISED TO CLAIMS FOR DAMAGES CAUSED BY:

4 * * *

5 (11) WRONGFUL CONVICTION.--A WRONGFUL CONVICTION FOR
6 WHICH A CLAIM MAY BE BROUGHT UNDER SECTION 8583 (RELATING TO
7 PETITION FOR COMPENSATION).

8 SECTION 2. SECTION 8528(D) OF TITLE 42 IS AMENDED TO READ:
9 § 8528. LIMITATIONS ON DAMAGES.

10 * * *

11 (D) EXCLUSIONS.--THIS SECTION SHALL NOT APPLY TO DAMAGES
12 AWARDED UNDER SECTION 8522(B) (10) OR (11).

13 SECTION 3. SECTION 8542(B) OF TITLE 42 IS AMENDED BY ADDING
14 A PARAGRAPH TO READ:

15 § 8542. EXCEPTIONS TO GOVERNMENTAL IMMUNITY.

16 * * *

17 (B) ACTS WHICH MAY IMPOSE LIABILITY.--THE FOLLOWING ACTS BY
18 A LOCAL AGENCY OR ANY OF ITS EMPLOYEES MAY RESULT IN THE
19 IMPOSITION OF LIABILITY ON A LOCAL AGENCY:

20 * * *

21 (10) WRONGFUL CONVICTION.--A WRONGFUL CONVICTION FOR
22 WHICH A PETITION MAY BE FILED UNDER SECTION 8583 (RELATING TO
23 PETITION FOR COMPENSATION).

24 * * *

25 SECTION 4. CHAPTER 85 OF TITLE 42 IS AMENDED BY ADDING A
26 SUBCHAPTER TO READ:

27 SUBCHAPTER D

28 CLAIMS FOR COMPENSATION FOR WRONGFUL CONVICTION

29 SEC.

30 8581. SCOPE OF SUBCHAPTER.

1 8582. ELIGIBILITY TO SEEK COMPENSATION FOR WRONGFUL CONVICTION.

2 8583. PETITION FOR COMPENSATION.

3 8584. COMPENSATION.

4 8585. NOTICE TO TREASURY.

5 8586. STATUTE OF LIMITATIONS.

6 § 8581. SCOPE OF SUBCHAPTER.

7 THIS SUBCHAPTER RELATES TO THE PROVISION OF COMPENSATION FOR
8 A WRONGFUL CONVICTION.

9 § 8582. ELIGIBILITY TO SEEK COMPENSATION FOR WRONGFUL
10 CONVICTION.

11 (A) GENERAL RULE.--AN ACTION MAY BE BROUGHT UNDER THIS
12 SUBCHAPTER TO SEEK COMPENSATION FOR THE WRONGFUL CONVICTION OF
13 AN INDIVIDUAL. THE CLAIM MAY BE BROUGHT BY:

14 (1) AN INDIVIDUAL WHO WAS CONVICTED OF A CRIME FOR WHICH
15 THE INDIVIDUAL WAS SUBSEQUENTLY INCARCERATED OR SUBJECT TO
16 INVOLUNTARY TREATMENT, HAS SERVED ALL OR ANY PART OF THE
17 SENTENCE, ALLEGES PRIMA FACIE EVIDENCE OF ACTUAL INNOCENCE OF
18 THE CRIME OR CRIMES AND AT LEAST ONE OF THE FOLLOWING
19 APPLIES:

20 (I) THE CONVICTION WAS DISMISSED, OVERTURNED,
21 REVERSED OR VACATED ON DIRECT OR COLLATERAL REVIEW AND
22 THE CHARGE WAS NOT REFILED.

23 (II) THE CONVICTION WAS DISMISSED, OVERTURNED,
24 REVERSED OR VACATED ON DIRECT OR COLLATERAL REVIEW AND
25 THE INDIVIDUAL IS ACQUITTED AFTER RETRIAL.

26 (III) THE CONVICTION WAS OVERTURNED, REVERSED OR
27 VACATED ON DIRECT OR COLLATERAL REVIEW AND THE INDIVIDUAL
28 SUBSEQUENTLY ENTERED AN ALFORD PLEA OR PLEA OF NO CONTEST
29 WHEN OTHERWISE ELIGIBLE TO SEEK RETRIAL.

30 (IV) A FULL PARDON HAS BEEN ISSUED BY THE GOVERNOR.

1 (2) THE HEIRS OF AN INDIVIDUAL MEETING THE CRITERIA
2 UNDER PARAGRAPH (1), IF THE INDIVIDUAL IS DECEASED,
3 NOTWITHSTANDING IF THE HEIRS ARE RESIDENTS OF THIS
4 COMMONWEALTH.

5 (B) INELIGIBILITY FOR COMPENSATION.--A CLAIMANT MAY NOT SEEK
6 COMPENSATION UNDER THIS SUBCHAPTER IF ANY OF THE FOLLOWING
7 APPLY:

8 (1) THE INDIVIDUAL WAS AN ACCOMPLICE, A COCONSPIRATOR, A
9 SOLICITOR OR AN ACCESSORY IN THE COMMISSION OF THE CRIME FOR
10 WHICH THE INDIVIDUAL WAS ORIGINALLY CONVICTED AND
11 MEANINGFULLY PARTICIPATED IN THE CRIME.

12 (2) THE INDIVIDUAL WAS ALSO SERVING A SENTENCE FOR
13 ANOTHER CRIME FOR WHICH THE INDIVIDUAL WAS LAWFULLY
14 INCARCERATED FOR THE ENTIRETY OF THE TIME OTHERWISE ELIGIBLE
15 FOR COMPENSATION.

16 (3) THE INDIVIDUAL COMMITTED PERJURY OR WITNESS
17 INTIMIDATION OR FABRICATED EVIDENCE AT THE ORIGINAL TRIAL. A
18 CONFESSION OR ADMISSION LATER FOUND TO BE FALSE OR A GUILTY
19 PLEA, ALFORD PLEA OR A PLEA OF NO CONTEST SHALL NOT
20 CONSTITUTE PERJURY OR FABRICATION OF EVIDENCE.

21 (4) THE INDIVIDUAL WAS CONVICTED OF A FELONY ARISING
22 FROM THE SAME SET OF FACTS AS THE CRIME FOR WHICH THE
23 INDIVIDUAL WAS ORIGINALLY CONVICTED. A SUBSEQUENT ALFORD PLEA
24 OR PLEA OF NO CONTEST BASED ON THE SAME SET OF FACTS AS THE
25 CRIME FOR WHICH THE INDIVIDUAL WAS ORIGINALLY CONVICTED SHALL
26 NOT BAR A CLAIMANT FROM FILING A PETITION.

27 § 8583. PETITION FOR COMPENSATION.

28 (A) GENERALLY.--A PETITION FOR COMPENSATION SHALL BE IN A
29 FORM AND MANNER DETERMINED BY THE SUPREME COURT. PETITIONS SHALL
30 BE FILED AND HEARD BY COMMONWEALTH COURT. A PROCEEDING BEFORE

1 COMMONWEALTH COURT SHALL BE GOVERNED BY RULES ESTABLISHED BY
2 COMMONWEALTH COURT, WHICH SHALL EMPHASIZE INFORMALITY TO THE
3 GREATEST EXTENT POSSIBLE. A CLAIMANT SHALL NOT BE REQUIRED TO BE
4 REPRESENTED OR ACCOMPANIED BY AN ATTORNEY.

5 (B) CONTENTS OF PETITION.--TO PRESENT A CLAIM FOR
6 COMPENSATION FOR WRONGFUL CONVICTION, THE PETITION SHALL INCLUDE
7 A STATEMENT OF CLAIM ESTABLISHING THE FOLLOWING:

8 (1) THE INDIVIDUAL MEETS THE ELIGIBILITY CRITERIA LISTED
9 UNDER SECTION 8582 (RELATING TO ELIGIBILITY TO SEEK
10 COMPENSATION FOR WRONGFUL CONVICTION).

11 (2) THE INDIVIDUAL WAS SENTENCED TO INCARCERATION, OR TO
12 CONFINEMENT IN AN INSTITUTION UNDER SECTION 6403 (RELATING TO
13 COURT-ORDERED INVOLUNTARY TREATMENT), BASED ON THE WRONGFUL
14 CONVICTION AND HAS SERVED ALL OR ANY PART OF THAT SENTENCE.

15 (3) THE SPECIFIC DATES FOR WHICH THE INDIVIDUAL IS
16 SEEKING COMPENSATION, SUBJECT TO ANY EXCLUDABLE PERIODS.

17 (4) THE INDIVIDUAL DOES NOT HAVE INELIGIBILITY FACTORS
18 UNDER SECTION 8582.

19 (5) THE SPECIFIC COMPENSATION THE PETITIONER IS
20 REQUESTING IF THE PETITION WERE GRANTED.

21 (6) EVIDENCE SUPPORTING THE CLAIMANT'S ACTUAL INNOCENCE
22 OF THE CRIME FOR WHICH THE CLAIMANT WAS INCARCERATED, WHICH
23 MAY INCLUDE:

24 (I) THE FILINGS UNDER SUBCHAPTER B OF CHAPTER 95
25 (RELATING TO POST CONVICTION RELIEF) FROM THE CASE
26 SHOWING THAT THE CLAIMANT MEETS THE CRITERIA UNDER
27 SECTION 8582.

28 (II) THE COURT TRANSCRIPTS FROM THE CASE SHOWING
29 THAT THE CLAIMANT MEETS THE CRITERIA UNDER SECTION 8582.

30 (III) AN EXPLANATION AS TO WHY THE CLAIMANT SHOULD

1 BE CONSIDERED ELIGIBLE TO SEEK COMPENSATION.

2 (C) SERVICE.--UPON RECEIPT OF A FILED PETITION, THE COURT
3 SHALL FORWARD A COPY OF THE PETITION TO THE PROSECUTING ENTITY
4 WHICH MAY BE EITHER:

5 (1) THE DISTRICT ATTORNEY IN THE DISTRICT WHERE THE
6 INDIVIDUAL WAS PROSECUTED; OR

7 (2) THE OFFICE OF ATTORNEY GENERAL IF THE INDIVIDUAL WAS
8 PROSECUTED BY THE OFFICE OF ATTORNEY GENERAL.

9 (D) RESPONSE TO PETITION.--UPON RECEIPT OF SERVICE, THE
10 PROSECUTING ENTITY SHALL HAVE 30 DAYS TO RESPOND TO THE
11 PETITION, STATING THAT EITHER:

12 (1) THE PROSECUTING ENTITY AGREES THAT THE PETITIONER
13 MEETS THE ELIGIBILITY FOR COMPENSATION AND DECLINES TO OPPOSE
14 THE CLAIM.

15 (2) THE PROSECUTING ENTITY DISAGREES THAT THE PETITIONER
16 MEETS THE ELIGIBILITY FOR COMPENSATION AND REQUESTS A HEARING
17 TO PRESENT EVIDENCE TO OPPOSE THE CLAIM.

18 (E) HEARINGS.--

19 (1) IF A HEARING IS REQUESTED BY THE PROSECUTING ENTITY,
20 THE COURT SHALL SCHEDULE A HEARING AS SOON AS POSSIBLE,
21 PROVIDED THE PETITIONER AND THE PROSECUTING ENTITY HAVE AT
22 LEAST 15 DAYS' NOTICE.

23 (2) IF THE COURT DETERMINES A HEARING IS NECESSARY TO
24 DETERMINE A PETITIONER'S ELIGIBILITY AND ENTITLEMENT TO
25 COMPENSATION, THE COURT MAY SCHEDULE A HEARING IF THE
26 PETITIONER AND THE PROSECUTING ENTITY HAVE AT LEAST 15 DAYS'
27 NOTICE.

28 (3) IF THE COURT DENIES A PETITION WITHOUT HAVING HELD A
29 HEARING, THE COURT SHALL PROVIDE NOTICE TO THE PETITIONER AND
30 THE PROSECUTING ENTITY THAT THE PETITIONER HAS 15 DAYS FROM

1 THE DATE OF THE NOTICE TO REQUEST A HEARING. UPON RECEIPT OF
2 A PETITIONER'S REQUEST, THE COURT SHALL SCHEDULE A HEARING AS
3 SOON AS POSSIBLE, IF THE PETITIONER AND THE PROSECUTING
4 ENTITY HAVE AT LEAST 15 DAYS' NOTICE.

5 (4) FOLLOWING ANY HEARING ON A PETITION FOR COMPENSATION
6 WHERE EVIDENCE IS PRESENTED, THE COURT SHALL DETERMINE IF ALL
7 THE FOLLOWING APPLY:

8 (I) THE PETITIONER MEETS THE ELIGIBILITY CRITERIA
9 UNDER SECTION 8582 (A).

10 (II) THE INDIVIDUAL WHO IS THE SUBJECT OF THE
11 PETITION DOES NOT HAVE ANY INELIGIBILITY FACTORS UNDER
12 SECTION 8582 (B).

13 (III) THE COURT IS SATISFIED OF THE INDIVIDUAL'S
14 ACTUAL INNOCENCE OF THE CRIME FOR WHICH THE INDIVIDUAL
15 WAS INCARCERATED.

16 (5) FOLLOWING ANY HEARING ON A PETITION FOR
17 COMPENSATION, THE COURT SHALL STATE ITS FINDING FOR THE
18 RECORD. A PETITIONER WHOSE PETITION IS DETERMINED TO MEET THE
19 CRITERIA IN PARAGRAPH (4) SHALL BE ENTITLED TO COMPENSATION
20 UNDER SECTION 8584 (RELATING TO COMPENSATION).

21 (6) IF THE PETITION IS DENIED, THE PETITIONER SHALL HAVE
22 THE RIGHT TO IMMEDIATELY APPEAL.

23 (F) GRANTING PETITION.--THE COURT SHALL GRANT THE PETITION
24 ON THE MERITS OF THE CLAIM IF UNOPPOSED BY THE PROSECUTING
25 ENTITY AND THE COURT IS SATISFIED THAT THE PETITIONER MEETS THE
26 ELIGIBILITY REQUIREMENTS AND THE INDIVIDUAL WHO IS THE SUBJECT
27 OF THE PETITION IS NOT INELIGIBLE BASED ON INELIGIBILITY FACTORS
28 OF SECTION 8582. IF A HEARING WAS HELD, THE COURT SHALL STATE
29 ITS FINDINGS OF THE PETITIONER'S ELIGIBILITY AND ENTITLEMENT TO
30 COMPENSATION IN ITS ORDER GRANTING OR DENYING THE PETITION. IN

1 AN ORDER GRANTING THE PETITION, THE COURT SHALL ALSO ORDER
2 COMPENSATION UNDER SECTION 8584.
3 § 8584. COMPENSATION.

4 (A) GRANTING OF PETITION.--IF COMMONWEALTH COURT GRANTS A
5 PETITION AND ENTERS AN ORDER IN FAVOR OF THE PETITIONER:

6 (1) THE COURT SHALL ORDER THE FOLLOWING:

7 (I) STATUTORY NONECONOMIC DAMAGES, AS ADJUSTED BY
8 SUBSECTION (C), OF \$100,000 FOR EACH YEAR OF IMPRISONMENT
9 OR INVOLUNTARY TREATMENT WHILE AWAITING A SENTENCE OF
10 DEATH.

11 (II) STATUTORY NONECONOMIC DAMAGES, AS ADJUSTED BY
12 SUBSECTION (C), OF \$75,000 FOR EACH YEAR OF IMPRISONMENT
13 OR INVOLUNTARY TREATMENT FOR ANY OTHER SENTENCE.

14 (III) STATUTORY NONECONOMIC DAMAGES, AS ADJUSTED BY
15 SUBSECTION (C), OF \$50,000 FOR EACH YEAR SPENT ON PAROLE
16 OR PROBATION.

17 (2) THE COURT MAY ORDER THE FOLLOWING IF REQUESTED BY
18 THE PETITIONER:

19 (I) REIMBURSEMENT OF UNREIMBURSED COSTS, FINES, FEES
20 OR SURCHARGES IMPOSED ON THE INDIVIDUAL AS A RESULT OF
21 THE CONVICTION WHICH WERE PAID BY OR ON BEHALF OF THE
22 INDIVIDUAL.

23 (II) REIMBURSEMENT OF UNREIMBURSED RESTITUTION PAID
24 BY THE INDIVIDUAL BECAUSE OF THE CONVICTION.

25 (III) COMPENSATION FOR REASONABLE REINTEGRATIVE
26 SERVICES AND MENTAL AND PHYSICAL HEALTH CARE COSTS
27 INCURRED BY THE INDIVIDUAL FOR THE PERIOD BETWEEN THE
28 INDIVIDUAL'S RELEASE FROM INCARCERATION OR INVOLUNTARY
29 TREATMENT AND THE DATE OF THE PETITIONER'S AWARD.

30 (IV) SEPARATION SERVICES AND PROGRAMS AVAILABLE TO

1 ANY OTHER INDIVIDUAL LEAVING INCARCERATION.

2 (V) REASONABLE ATTORNEY FEES FOR OBTAINING THE
3 DISMISSAL, OVERTURNING, REVERSAL OR VACATION OF THE
4 UNDERLYING CONVICTION, CALCULATED AT 10% OF THE DAMAGE
5 AWARDED PLUS EXPENSES. EXCLUSIVE OF EXPENSES, THE FEES
6 MAY NOT EXCEED \$75,000, AS ADJUSTED ANNUALLY TO ACCOUNT
7 FOR INFLATION FROM THE EFFECTIVE DATE OF THIS
8 SUBPARAGRAPH, UNLESS THE COURT APPROVES AN ADDITIONAL
9 AMOUNT FOR GOOD CAUSE. THE FEES MAY NOT BE DEDUCTED FROM
10 THE COMPENSATION AWARDED TO THE CLAIMANT NOR MAY COUNSEL
11 RECEIVE ADDITIONAL FEES FROM THE CLIENT FOR THIS MATTER.

12 (VI) REASONABLE ATTORNEY FEES AND EXPENSES FOR
13 OBTAINING COMPENSATION UNDER THIS SECTION. THE FEES MAY
14 NOT BE DEDUCTED FROM THE COMPENSATION AWARDED TO THE
15 CLAIMANT, NOR MAY COUNSEL RECEIVE ADDITIONAL FEES FROM
16 THE CLIENT FOR THIS MATTER.

17 (VII) CHILD SUPPORT PAYMENTS OWED BY THE INDIVIDUAL
18 THAT BECAME DUE AND INTEREST ON CHILD SUPPORT ARREARAGES
19 THAT ACCRUED DURING THE TIME THE INDIVIDUAL WAS
20 WRONGFULLY INCARCERATED BUT WERE NOT PAID. THE
21 COMPENSATION SHALL BE PROVIDED OUT OF THE TOTAL STATUTORY
22 NONECONOMIC DAMAGES AWARDED TO THE PETITIONER UNDER THIS
23 SECTION.

24 (B) STATUTORY NONECONOMIC DAMAGES.--IF STATUTORY NONECONOMIC
25 DAMAGES ARE AWARDED, THE FOLLOWING SHALL APPLY:

26 (1) THE PAYMENT OF DAMAGES SHALL BE PRORATED FOR PARTIAL
27 YEARS OF IMPRISONMENT.

28 (2) THE PAYMENT OF DAMAGES SHALL BE TO OR FOR THE
29 BENEFIT OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE PETITION
30 AS ELECTED BY THE INDIVIDUAL.

1 (3) FOR A DECEASED INDIVIDUAL WHO WAS WRONGFULLY
2 CONVICTED, THE PAYMENT OF DAMAGES MAY BE TO OR FOR THE
3 BENEFIT OF THE HEIRS OF THE DECEASED INDIVIDUAL. DAMAGES
4 AWARDED SHALL BE DISTRIBUTED PURSUANT TO A VALID WILL OR
5 TRUST OR, IF NO VALID WILL OR TRUST EXISTS, TO THE HEIRS IN
6 THE PROPORTION THE HEIRS WOULD RECEIVE THE PERSONAL ESTATE OF
7 THE DECEDENT IN THE CASE OF INTESTACY. DAMAGES AWARDED MAY
8 NOT BE PAID TO CREDITORS OF THE DECEASED INDIVIDUAL UNDER THE
9 STATUTES OF THIS COMMONWEALTH.

10 (4) THE PAYMENT OF DAMAGES MAY BE IN A LUMP SUM OR AS AN
11 ANNUITY AS CHOSEN BY THE PETITIONER.

12 (5) COMPENSATION AWARDED UNDER THIS SUBCHAPTER SHALL NOT
13 BE CONSIDERED INCOME FOR THE PURPOSE OF COMPUTING THE TAX
14 IMPOSED UNDER ARTICLE III OF THE ACT OF MARCH 4, 1971 (P.L.6,
15 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

16 (6) THE PETITIONER SHALL NOT RECEIVE COMPENSATION FOR
17 ANY PERIOD DURING WHICH THE INDIVIDUAL WAS ALSO SERVING A
18 SENTENCE FOR ANOTHER CRIME FOR WHICH THE INDIVIDUAL WAS
19 LAWFULLY INCARCERATED.

20 (C) ADJUSTMENT OF STATUTORY NONECONOMIC DAMAGES.--BEGINNING
21 IN 2024, AND EACH YEAR THEREAFTER, THE COURT ADMINISTRATOR OF
22 PENNSYLVANIA SHALL DETERMINE THE PERCENTAGE INCREASE OR DECREASE
23 IN THE COST OF LIVING FOR THE PREVIOUS CALENDAR YEAR, BASED ON
24 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
25 (CPI-U) FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND
26 AREA AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE
27 UNITED STATES DEPARTMENT OF LABOR. THE INCREASES OR DECREASES
28 SHALL BE MADE IN ACCORDANCE WITH THE FOLLOWING:

29 (1) ON OR BEFORE JULY 1 OF THE YEAR IN WHICH THE COURT
30 ADMINISTRATOR OF PENNSYLVANIA MAKES THE DETERMINATION

1 REQUIRED UNDER THIS SUBSECTION, THE COURT ADMINISTRATOR OF
2 PENNSYLVANIA SHALL ADJUST THE AMOUNTS PRESCRIBED UNDER
3 SUBSECTION (A) (1) AND (2) FOR THE FOLLOWING CALENDAR YEAR BY
4 MULTIPLYING THE AMOUNTS APPLICABLE TO THE CALENDAR YEAR IN
5 WHICH THE ADJUSTMENT IS MADE BY THE PERCENTAGE AMOUNT
6 DETERMINED UNDER THIS SUBSECTION.

7 (2) THE ADJUSTMENT MAY NOT EXCEED 3% FOR ANY YEAR.

8 (3) THE COURT ADMINISTRATOR OF PENNSYLVANIA SHALL ROUND
9 THE ADJUSTED LIMITATION AMOUNT TO THE NEAREST \$100. THE
10 UNROUNDED AMOUNT SHALL BE USED TO CALCULATE THE ADJUSTMENTS
11 TO THE AMOUNTS IN SUBSEQUENT CALENDAR YEARS.

12 (4) THE ADJUSTED AMOUNTS SHALL BECOME EFFECTIVE ON JULY
13 1 OF THE YEAR IN WHICH THE ADJUSTMENT IS MADE AND APPLY TO
14 CLAIMS FILED UNDER THIS SECTION ON OR AFTER JULY 1 OF THAT
15 YEAR AND BEFORE JULY 1 OF THE SUBSEQUENT YEAR.

16 (5) THE COURT ADMINISTRATOR OF PENNSYLVANIA SHALL SUBMIT
17 NOTICE OF THE ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE
18 BUREAU FOR PUBLICATION IN THE NEXT AVAILABLE ISSUE OF THE
19 PENNSYLVANIA BULLETIN.

20 (D) CIVIL OFFSET AND REIMBURSEMENT.--IF THE PETITIONER
21 RECEIVES A MONETARY AWARD AGAINST THE COMMONWEALTH OR ANY
22 POLITICAL SUBDIVISION OF THE COMMONWEALTH IN A CIVIL ACTION FOR
23 WRONGFUL CONVICTION OR IMPRISONMENT FOR THE CRIMES AT ISSUE IN
24 THE PETITION OR HAS ENTERED INTO A SETTLEMENT AGREEMENT WITH THE
25 COMMONWEALTH OR ANY POLITICAL SUBDIVISION OF THE COMMONWEALTH
26 FOR WRONGFUL CONVICTION OR IMPRISONMENT FOR THE CRIMES AT ISSUE
27 IN THE PETITION, THE FOLLOWING SHALL APPLY:

28 (1) THE ACCEPTANCE BY THE CLAIMANT OF A JUDICIAL AWARD,
29 COMPROMISE OR SETTLEMENT, OTHER THAN AN AWARD FOR WRONGFUL
30 CONVICTION, SHALL BE IN WRITING AND SHALL, EXCEPT IF PROCURED

1 BY FRAUD, BE FINAL AND CONCLUSIVE ON THE CLAIMANT AND
2 COMPLETELY BAR ANY FURTHER ACTION BY THE CLAIMANT AGAINST THE
3 COMMONWEALTH ON THE SAME SUBJECT MATTER.

4 (2) THE TOTAL AWARD OF STATUTORY NONECONOMIC DAMAGES
5 UNDER THIS SUBCHAPTER SHALL BE REDUCED BY THE SUM OF THE
6 MONETARY AWARD RECEIVED IN THE CIVIL ACTION OR SETTLEMENT
7 AGREEMENT, LESS ATTORNEY FEES, EXPENSES AND OUT-OF-POCKET
8 COSTS PAID BY THE PETITIONER IN CONNECTION WITH OBTAINING THE
9 CIVIL ACTION AWARD OR SETTLEMENT.

10 (3) IF THE PETITIONER HAS ALREADY RECEIVED COMPENSATION
11 UNDER THIS SUBCHAPTER AND SUBSEQUENTLY RECEIVES A MONETARY
12 AWARD IN A CIVIL ACTION OR SETTLEMENT, THE PETITIONER SHALL
13 REIMBURSE THE COMMONWEALTH FOR THE SUM OF THE STATUTORY
14 NONECONOMIC DAMAGES AWARDED UNDER THIS SECTION, LESS ATTORNEY
15 FEES, EXPENSES AND OUT-OF-POCKET COSTS PAID BY THE PETITIONER
16 IN OBTAINING THE CIVIL ACTION AWARD OR SETTLEMENT, UP TO THE
17 FULL AMOUNT AWARDED UNDER THE PETITION.

18 (4) EXPENSES INCURRED BY THE COMMONWEALTH OR ANY OF ITS
19 AGENCIES OR POLITICAL SUBDIVISIONS, INCLUDING EXPENSES
20 INCURRED TO SECURE THE INDIVIDUAL'S CUSTODY OR INVOLUNTARY
21 TREATMENT UNDER SECTION 6403 (RELATING TO COURT-ORDERED
22 INVOLUNTARY TREATMENT), OR TO FEED, CLOTHE OR PROVIDE MEDICAL
23 SERVICES FOR THE INDIVIDUAL WHILE IMPRISONED AND THE VALUE OF
24 ANY GOODS OR SERVICES PROVIDED TO THE INDIVIDUAL UNDER 61
25 PA.C.S. CH. 11 SUBCH. E (RELATING TO SERVICES AFTER WRONGFUL
26 CONVICTION) SHALL NOT BE SUBJECT TO REIMBURSEMENT UNDER THIS
27 SUBSECTION.

28 (E) RECORDS.--IMMEDIATELY FOLLOWING THE GRANT OF A PETITION,
29 THE CRIMINAL HISTORY RECORD INFORMATION RELATED TO THE CRIMES
30 FOR WHICH THE PETITION WAS GRANTED SHALL BE UNAVAILABLE

1 CONSISTENT WITH THE PROVISIONS RELATED TO LIMITED ACCESS OF
2 CRIMINAL HISTORY RECORD INFORMATION UNDER 18 PA.C.S. §§ 9121
3 (RELATING TO GENERAL REGULATIONS) AND 9122.2 (RELATING TO CLEAN
4 SLATE LIMITED ACCESS) AND SHALL HAVE THE SAME EFFECT AS PROVIDED
5 FOR UNDER 18 PA.C.S. § 9122.5 (RELATING TO EFFECTS OF EXPUNGED
6 RECORDS AND RECORDS SUBJECT TO LIMITED ACCESS). THE COURT SHALL
7 NOTIFY THE PETITIONER OF THE RIGHT TO HAVE THE RECORDS EXPUNGED
8 AND TO REQUEST A COPY OF THE COMPLETE RECORD OF CONVICTION AND
9 AN AUTOMATIC EXPUNGEMENT OF THE RELATED CRIMINAL HISTORY RECORD
10 INFORMATION. THE PETITIONER SHALL HAVE TWO YEARS FROM THE DATE
11 OF THE GRANT OF THE PETITION TO REQUEST A COPY OF THE CONVICTION
12 RECORD AND AN AUTOMATIC EXPUNGEMENT. THE PETITIONER MAY REQUEST
13 A COPY OF THE RECORD IN A MANNER DETERMINED BY THE COURT.

14 § 8585. NOTICE TO TREASURY.

15 FOLLOWING A RULING BY COMMONWEALTH COURT ON A CLAIM BROUGHT
16 UNDER THIS SUBCHAPTER, THE COURT SHALL PROVIDE A COPY OF THE
17 ORDER TO THE STATE TREASURER WITH A STATEMENT OF THE TOTAL
18 COMPENSATION DUE AND OWING TO THE PETITIONER AND ANY OTHER
19 PERSON. UPON RECEIPT OF THE NOTICE, THE STATE TREASURER'S OFFICE
20 SHALL CONTACT THE PETITIONER AND COUNSEL FOR THE PETITIONER TO
21 MAKE ARRANGEMENTS FOR PAYMENT.

22 § 8586. STATUTE OF LIMITATIONS.

23 (A) FILING.--EXCEPT AS PROVIDED UNDER SUBSECTION (B), AN
24 ACTION BROUGHT UNDER THIS SUBCHAPTER TO SEEK COMPENSATION FOR
25 THE WRONGFUL CONVICTION OF AN INDIVIDUAL MUST BE FILED WITHIN
26 SIX YEARS OF THE DATE OF RELEASE FROM INCARCERATION OR
27 INVOLUNTARY TREATMENT OR THE REVERSAL OF THE CONVICTION,
28 WHICHEVER IS LATER. ANY ACTION BY THE COMMONWEALTH CHALLENGING
29 OR APPEALING THE GRANT OF JUDICIAL RELIEF SHALL TOLL THE SIX-
30 YEAR PERIOD.

1 (B) COMMENCEMENT OF ACTION.--NOTWITHSTANDING SUBSECTION (A)
2 OR ANY OTHER PROVISION OF LAW, AN INDIVIDUAL CONVICTED,
3 INCARCERATED AND RELEASED FROM CUSTODY PRIOR TO THE EFFECTIVE
4 DATE OF THIS SUBSECTION MUST COMMENCE AN ACTION UNDER THIS
5 SUBCHAPTER NO LATER THAN TWO YEARS AFTER THE EFFECTIVE DATE OF
6 THIS SUBSECTION.

7 SECTION 5. CHAPTER 11 OF TITLE 61 IS AMENDED BY ADDING A
8 SUBCHAPTER TO READ:

9 SUBCHAPTER E

10 SERVICES AFTER WRONGFUL CONVICTION

11 SEC.

12 1181. SCOPE OF SUBCHAPTER.

13 1182. (RESERVED).

14 1183. ELIGIBILITY FOR SERVICES AFTER WRONGFUL CONVICTION.

15 1184. SERVICES.

16 1185. REGULATIONS AND RULES.

17 § 1181. SCOPE OF SUBCHAPTER.

18 THIS SUBCHAPTER RELATES TO THE PROVISION OF SERVICES TO A
19 WRONGFULLY CONVICTED INDIVIDUAL AFTER RELEASE.

20 § 1182. (RESERVED).

21 § 1183. ELIGIBILITY FOR SERVICES AFTER WRONGFUL CONVICTION.

22 AN INDIVIDUAL RELEASED FROM INCARCERATION IN A STATE
23 CORRECTIONAL INSTITUTION OR FROM COURT-ORDERED INVOLUNTARY
24 TREATMENT WHO MEETS THE ELIGIBILITY CRITERIA UNDER 42 PA.C.S. §
25 8582(A)(1) (RELATING TO ELIGIBILITY TO SEEK COMPENSATION FOR
26 WRONGFUL CONVICTION) SHALL BE ENTITLED TO AND THE COMMONWEALTH
27 SHALL PROVIDE EACH SERVICE UNDER SECTION 1184 (RELATING TO
28 SERVICES).

29 § 1184. SERVICES.

30 THE COMMONWEALTH SHALL PROVIDE THE FOLLOWING SERVICES TO

1 ELIGIBLE INDIVIDUALS UNDER SECTION 1183 (RELATING TO ELIGIBILITY
2 FOR SERVICES AFTER WRONGFUL CONVICTION):

3 (1) SERVICES AND PROGRAMS AT COMMUNITY CORRECTIONS
4 CENTERS AND GROUP HOMES UNDER 37 PA. CODE § 94.3 (RELATING TO
5 PROCEDURES FOR PARTICIPATION IN PRERELEASE PROGRAMS).

6 (2) GENERAL ASSISTANCE UNDER 55 PA. CODE § 141.61
7 (RELATING TO POLICY).

8 (3) MEDICAL ASSISTANCE FOR CATEGORICALLY NEEDY, UNDER
9 THE FOLLOWING:

10 (I) 55 PA. CODE § 165.41 (RELATING TO ELIGIBILITY
11 FOR SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES).

12 (II) 55 PA. CODE § 165.42 (RELATING TO ADVANCE
13 PROVISION OF SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES).

14 (III) 55 PA. CODE § 165.43 (RELATING TO REQUESTS FOR
15 SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES AND TIME
16 FRAMES FOR ELIGIBILITY DETERMINATIONS).

17 (IV) 55 PA. CODE § 165.44 (RELATING TO VERIFICATION
18 FOR SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES).

19 (V) 55 PA. CODE § 165.45 (RELATING TO TIME FRAMES
20 FOR AUTHORIZATION OF SPECIAL ALLOWANCES FOR SUPPORTIVE
21 SERVICES).

22 (VI) 55 PA. CODE § 165.46 (RELATING TO TYPES OF
23 SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES).

24 § 1185. REGULATIONS AND RULES.

25 (A) TEMPORARY REGULATIONS.--

26 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER
27 TO FACILITATE THE PROMPT IMPLEMENTATION OF THIS SUBCHAPTER,
28 THE DEPARTMENT, THE DEPARTMENT OF HUMAN SERVICES AND THE
29 BOARD OF PARDONS MAY ISSUE TEMPORARY REGULATIONS. THE
30 FOLLOWING APPLY:

1 (I) THE DEPARTMENT SHALL ISSUE THE TEMPORARY
2 REGULATIONS WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF
3 THIS SUBSECTION. REGULATIONS ADOPTED AFTER THE SIX-MONTH
4 PERIOD SHALL BE PROMULGATED AS PROVIDED BY STATUTE.

5 (II) NOTICE OF THE TEMPORARY REGULATIONS SHALL BE
6 TRANSMITTED TO THE LEGISLATIVE REFERENCE BUREAU FOR
7 PUBLICATION IN THE NEXT AVAILABLE ISSUE OF THE
8 PENNSYLVANIA BULLETIN.

9 (III) THE DEPARTMENT SHALL POST THE TEMPORARY
10 REGULATIONS ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE.

11 (IV) THE TEMPORARY REGULATIONS SHALL EXPIRE NO LATER
12 THAN TWO YEARS FOLLOWING PUBLICATION OF THE TEMPORARY
13 REGULATIONS IN THE PENNSYLVANIA BULLETIN.

14 (2) THE TEMPORARY REGULATIONS UNDER PARAGRAPH (1) SHALL
15 BE EXEMPT FROM THE FOLLOWING:

16 (I) SECTION 612 OF THE ACT OF APRIL 9, 1929
17 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
18 1929.

19 (II) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT
20 OF JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE
21 COMMONWEALTH DOCUMENTS LAW.

22 (III) SECTIONS 204(B) AND 301(10) OF THE ACT OF
23 OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE
24 COMMONWEALTH ATTORNEYS ACT.

25 (IV) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181),
26 KNOWN AS THE REGULATORY REVIEW ACT.

27 (B) CONTENTS OF REGULATIONS.--

28 (1) WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS
29 SUBSECTION, THE DEPARTMENT SHALL PROMULGATE TEMPORARY
30 REGULATIONS TO ENSURE THAT THE DEPARTMENT OF HUMAN SERVICES

1 RECEIVES IDENTIFYING INFORMATION FOR EACH INDIVIDUAL WHO IS
2 ELIGIBLE FOR SERVICES UNDER SECTION 1183 (RELATING TO
3 ELIGIBILITY FOR SERVICES AFTER WRONGFUL CONVICTION) AND TO
4 ENSURE THAT EACH INDIVIDUAL IS PROVIDED WITH:

5 (I) AN APPLICATION FORM FOR BENEFITS UNDER THIS
6 SECTION.

7 (II) AN EMERGENCY STIPEND.

8 (III) NOTICE OF THE ABILITY TO SEEK COMPENSATION AS
9 PROVIDED UNDER 42 PA.C.S. CH. 85 SUBCH. D (RELATING TO
10 CLAIMS FOR COMPENSATION FOR WRONGFUL CONVICTION).

11 (2) WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS
12 PARAGRAPH, THE DEPARTMENT OF HUMAN SERVICES SHALL PROMULGATE
13 TEMPORARY REGULATIONS TO IMPLEMENT THE PROVISION OF BENEFITS
14 UNDER THIS SECTION. THE REGULATIONS SHALL INCLUDE:

15 (I) CREATION OF AN APPLICATION FOR BENEFITS.

16 (II) DESIGNATION OF AN INDIVIDUAL TO PROCESS
17 APPLICATION FORMS FOR BENEFITS THAT ARE RECEIVED BY THE
18 DEPARTMENT OF HUMAN SERVICES, INCLUDING ENSURING THAT A
19 DETERMINATION OF ELIGIBILITY FOR BENEFITS DOES NOT
20 PRECLUDE THE COMMONWEALTH FROM OPPOSING A DETERMINATION
21 OF ELIGIBILITY FOR COMPENSATION UNDER 42 PA.C.S. § 8583
22 (RELATING TO PETITION FOR COMPENSATION).

23 (III) DRAFTING OF PROCEDURES AND GUIDELINES FOR
24 MAKING DETERMINATIONS ON APPLICATIONS.

25 (IV) REQUIRING DETERMINATIONS TO BE MADE WITHIN 14
26 DAYS OF RECEIPT OF AN APPLICATION.

27 (3) WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS
28 PARAGRAPH, THE BOARD OF PARDONS SHALL PROMULGATE TEMPORARY
29 REGULATIONS TO ENSURE THAT THE DEPARTMENT OF HUMAN SERVICES
30 RECEIVES IDENTIFYING INFORMATION FOR EACH INDIVIDUAL WHO,

1 AFTER HAVING BEEN RELEASED FROM INCARCERATION OR COURT-
2 ORDERED INVOLUNTARY TREATMENT, IS PARDONED OF THE CHARGES
3 UNDERLYING THE INCARCERATION AND TO ENSURE THAT EACH
4 INDIVIDUAL IS PROVIDED WITH:

5 (I) AN APPLICATION FORM FOR BENEFITS UNDER THIS
6 SECTION.

7 (II) AN EMERGENCY STIPEND.

8 (III) NOTICE OF THE ABILITY TO SEEK COMPENSATION AS
9 PROVIDED UNDER 42 PA.C.S. CH. 85 SUBCH. D.

10 (C) PERMANENT REGULATIONS.--PRIOR TO THE EXPIRATION OF THE
11 TEMPORARY REGULATIONS, THE DEPARTMENT, THE DEPARTMENT OF HUMAN
12 SERVICES AND THE BOARD OF PARDONS SHALL PROPOSE FOR APPROVAL
13 PERMANENT REGULATIONS AS PROVIDED BY STATUTE. THE PROPOSED
14 PERMANENT REGULATIONS SHALL BE CONSISTENT WITH SUBSECTION (B)
15 AND MAY BE THE SAME AS THE TEMPORARY REGULATIONS.

16 (D) RULES OF COURT ADMINISTRATION.--WITHIN 120 DAYS OF THE
17 EFFECTIVE DATE OF THIS SUBSECTION, THE COURT ADMINISTRATOR OF
18 PENNSYLVANIA SHALL PROPOSE RULES OF JUDICIAL ADMINISTRATION FOR
19 ADOPTION UNDER THE PENNSYLVANIA RULES OF JUDICIAL ADMINISTRATION
20 TO ENSURE THAT THE DEPARTMENT OF HUMAN SERVICES RECEIVES
21 IDENTIFYING INFORMATION FOR EACH WRONGFULLY CONVICTED INDIVIDUAL
22 AS MAY BE AVAILABLE IN ONE OF THE UNIFIED JUDICIAL SYSTEM CASE
23 MANAGEMENT SYSTEMS.

24 SECTION 6. SECTION 6171(A) OF TITLE 61 IS AMENDED BY ADDING
25 A PARAGRAPH TO READ:

26 § 6171. POWERS AND DUTIES OF DEPARTMENT.

27 (A) POWERS AND DUTIES.--THE DEPARTMENT SHALL HAVE THE
28 FOLLOWING POWERS AND DUTIES:

29 * * *

30 (24) ASSIST THE TRANSITION OF AN INDIVIDUAL WHO HAS BEEN

1 EXONERATED AND ENSURE ACCESS TO THE SERVICES AND PROGRAMS
2 PROVIDED TO INDIVIDUALS PAROLED UNDER SECTION 6132 (RELATING
3 TO SPECIFIC POWERS OF BOARD INVOLVING OFFENDERS).

4 * * *

5 SECTION 7. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.