

Legislative Analysis



WRONGFUL IMPRISONMENT CLAIMS

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House Bill 5117 as enacted
Public Act 42 of 2020
Sponsor: Rep. Kyra Harris Bolden

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

House Bill 5118 as enacted
Public Act 43 of 2020
Sponsor: Rep. Julie Calley

Senate Bill 68 as enacted
Public Act 44 of 2020
Sponsor: Sen. Paul Wojno

House Committee: Judiciary
Senate Committee: Judiciary and Public Safety
Complete to 7-9-20

SUMMARY:

House Bill 5118 extends the window during which certain individuals who were wrongfully incarcerated may apply for compensation under the Wrongful Imprisonment Compensation Act. House Bill 5117 and Senate Bill 68 amend the Revised Judicature Act to exempt claims for compensation filed under the Wrongful Imprisonment Compensation Act from statutes of limitations for filing a claim against the state that could otherwise restrict or bar such claims.

The bills took effect March 3, 2020. Each bill specifies that its amendments apply retroactively to March 29, 2017 (the date the Wrongful Imprisonment Compensation Act became law).

House Bill 5118 amends the Wrongful Imprisonment Compensation Act. The window in which to file a claim for compensation under the act depends on the person's status at the time the act became law. Under the act, an action for compensation must be commenced within three years after entry of a verdict, order, or judgment that reverses or vacates the conviction, with the charges dismissed or the person found not guilty on retrial. The bill does not change this window.

However, for an individual who had been convicted, imprisoned, and released from custody before the act's effective date (March 29, 2017), an action had to be commenced by 18 months after that date (September 29, 2018).

The bill extends the deadline for these individuals to commence an action to 18 months after the bill's effective date. (House Bill 5118 took effect March 3, 2020, so it extends the deadline to September 3, 2021.)

MCL 691.1757

House Bill 5117 amends Chapter 64 (Court of Claims) of the Revised Judicature Act to specify that the following provisions pertaining to bringing an action against the state do not apply to a claim for compensation under the Wrongful Imprisonment Compensation Act:

- The requirement that a written claim against the state, or a written notice of intention to file a claim against the state, be filed with the clerk of the Court of Claims within one year after the claim accrued.
- For a claim against the state for property damage or personal injuries, the requirement that the claim or notice of intention to file a claim be filed with the clerk of the Court of Claims within six months after the event that gives rise to the claim.
- The requirements pertaining to information that must accompany or be included in a claim or notice of intention to file a claim against the state.

MCL 600.6431

Senate Bill 68 amends Chapter 64 of the Revised Judicature Act to exempt a claim for compensation under the Wrongful Imprisonment Compensation Act from statutes of limitations for filing a claim against the state that could otherwise restrict or bar claims filed under the Wrongful Imprisonment Compensation Act. This includes exempting such a claim from the permanent bar on bringing a claim against the state unless the claim is filed with the clerk of the Court of Claims, or an action commenced on the claim in federal court (as authorized under the Revised Judicature Act), within three years after the claim first accrues.

MCL 600.6452

BACKGROUND:

House Bill 5117 and Senate Bill 68, taken together, were reintroductions of SB 895 of the 2017-18 legislative session, and House Bill 5118 was a reintroduction of SB 896 of that session. Those bills were passed by the Senate and reported from the House Judiciary Committee.

BRIEF DISCUSSION:

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

The problem the bills address is that in 2018 the Court of Claims (the court in which all cases against the state must be filed) held that provisions in a different statute—the Revised Judicature Act—take precedence over the time periods in the Wrongful Imprisonment

Compensation Act.¹ The Revised Judicature Act requires all actions claiming property damage or personal injuries to be filed, or a notice of intent to be filed, within six months of when the damage or injury occurred. The court ruling in effect overturned the time periods in the Wrongful Imprisonment Compensation Act, which meant that those released prior to the act's effective date had only until September 29, 2017, to file a claim for compensation. As a result, several cases that were filed after that date, but before the act's 2018 deadline, were dismissed.

Enactment of the bills restores the legislature's intent to create a mechanism of fair compensation for those meeting the criteria who had been wrongfully convicted, imprisoned, and released prior to enactment of the Wrongful Imprisonment Compensation Act.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state. The fiscal impact would depend on the number of additional filings that would occur as a result of the bills' provisions. Under HB 5117, the six-month filing deadline found in the Revised Judicature Act would no longer apply to Wrongful Imprisonment Compensation Act cases, and under HB 5118 the filing deadline would be extended for another 18 months for prisoners exonerated before the Wrongful Imprisonment Compensation Act took effect. Taken together, the bills could result in approximately an additional \$2.8 million owed by the state to 11 individuals who would be eligible to receive wrongful imprisonment claims under the bills. Funds would be paid from the state restricted Wrongful Imprisonment Compensation Fund (WICF) but would have an indirect future impact on GF/GP when the balance of the WICF is no longer able to support ongoing claims and GF/GP deposits to the fund are needed.

There are 11 wrongful imprisonment claims made against the state that have been dismissed by the Court of Claims for not being made in accordance with the Revised Judicature Act. The bills amend the Revised Judicature Act to extend the periods provided by the Wrongful Imprisonment Compensation Act to permit these 11 wrongful imprisonment compensation claims to be filed. The amount of compensation claimed by the 11 dismissed cases is approximately \$2,689,900. This sum does not include attorney fees and reimbursement costs, which are also paid from the WICF to wrongfully imprisoned exonerees. While these additional costs are not yet determined, average costs are approximately 5% of the compensation claim, or \$134,000 in total. As of December 31, 2019, the balance of the WICF was \$8.3 million and there was a total value of \$1,378,500 of known unpaid claims against the state, not including attorney fees and costs. The addition of the 11 dismissed claims would bring the potential liability to the WICF to approximately \$4.2 million.

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

¹ In *Montgomery v Michigan*, Docket No. 342727 (2018).