

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 173

(SENATE AUTHORS: LATZ and Hall)

DATE
01/17/2019

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying compensation for exonerated persons; amending
1.3 Minnesota Statutes 2018, sections 590.11, subdivisions 1, 2, 5, 7; 611.365,
1.4 subdivisions 2, 3; 611.367; 611.368.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 590.11, subdivision 1, is amended to read:

1.7 Subdivision 1. ~~Definition~~ **Definitions.** (a) For purposes of this section, the following
1.8 terms have the meanings given them.

1.9 (b) "Exonerated" means that:

1.10 (1) a court ~~of this state:~~

1.11 (i) ~~vacated or, reversed, or set aside~~ a judgment of conviction on grounds consistent with
1.12 innocence and there are no remaining felony charges in effect against the petitioner from
1.13 the same behavioral incident, or if there are remaining felony charges against the petitioner
1.14 from the same behavioral incident, the prosecutor ~~dismissed the~~ dismisses those remaining
1.15 felony charges; or

1.16 (ii) ordered a new trial on grounds consistent with innocence and the prosecutor dismissed
1.17 ~~the charges or the petitioner was found not guilty at the new trial~~ all felony charges against
1.18 the petitioner arising from the same behavioral incident or the petitioner was found not
1.19 guilty of all felony charges arising from the same behavioral incident at the new trial; and

1.20 (2) the time for appeal of the order resulting in exoneration has expired or the order has
1.21 been affirmed and is final; and

2.1 (3) 60 days have passed since the judgment of conviction was reversed or vacated, and
 2.2 the prosecutor has not filed any felony charges against the petitioner from the same behavioral
 2.3 incident, or if the prosecutor did file felony charges against the petitioner from the same
 2.4 behavioral incident, those felony charges were dismissed or the defendant was found not
 2.5 guilty of those charges at the new trial.

2.6 (c) "On grounds consistent with innocence" means either:

2.7 (1) exonerated, through a pardon or sentence commutation, based on factual innocence;

2.8 or

2.9 (2) exonerated because the judgment of conviction was vacated or reversed, or a new
 2.10 trial was ordered, and there is any evidence of factual innocence whether it was available
 2.11 at the time of investigation or trial or is newly discovered evidence.

2.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

2.13 Sec. 2. Minnesota Statutes 2018, section 590.11, subdivision 2, is amended to read:

2.14 Subd. 2. **Procedure.** A petition for an order declaring eligibility for compensation based
 2.15 on exoneration under sections 611.362 to 611.368 must be brought before the district court
 2.16 where the original conviction was obtained. The state must be represented by the office of
 2.17 the prosecutor that obtained the conviction or the prosecutor's successor. Within 60 days
 2.18 after the filing of the petition, the prosecutor must respond to the petition. A petition must
 2.19 be brought within two years, but no less than 60 days after the petitioner is exonerated.

2.20 ~~Persons released from custody after being exonerated before July 1, 2014, must commence~~
 2.21 ~~an action under this section within two years of July 1, 2014. If before July 1, 2019, a person~~
 2.22 did not meet both requirements of Minnesota Statutes 2018, section 590.11, subdivision 1,
 2.23 clause (1), item (i), and did not file a petition or the petition was denied, that person may
 2.24 commence an action meeting the requirements under subdivision 1, paragraph (b), clause
 2.25 (1), item (i), on or after July 1, 2019, and before July 1, 2021.

2.26 **EFFECTIVE DATE.** This section is effective July 1, 2019.

2.27 Sec. 3. Minnesota Statutes 2018, section 590.11, subdivision 5, is amended to read:

2.28 Subd. 5. **Elements.** (a) A claim for compensation arises if a person is eligible for
 2.29 compensation under subdivision 3 and:

2.30 (1) the person was convicted of a felony and served any part of the imposed sentence
 2.31 ~~in prison;~~

3.1 (2) in cases where the person was convicted of multiple charges arising out of the same
3.2 behavioral incident, the person was exonerated for all of those charges;

3.3 (3) the person did not commit or induce another person to commit perjury or fabricate
3.4 evidence to cause or bring about the conviction; and

3.5 (4) the person was not serving a term of ~~imprisonment~~ incarceration for another crime
3.6 at the same time, ~~provided that~~ except:

3.7 (i) if the person served additional time in prison or jail due to the conviction that is the
3.8 basis of the claim, the person may make a claim for that portion of time served in prison or
3.9 jail during which the person was serving no other sentence; or

3.10 (ii) if the person served additional executed sentences that had been previously stayed,
3.11 and the reason the additional stayed sentences were executed was due to the conviction that
3.12 is the basis for the claim.

3.13 (b) A claimant may make a claim only for that portion of time served in prison or jail
3.14 during which the claimant was serving no other sentence, unless the other sentence arose
3.15 from the circumstances described in paragraph (a), clause (4), item (ii).

3.16 (c) A confession or admission later found to be false or a guilty plea to a crime the
3.17 claimant did not commit does not constitute bringing about the claimant's conviction for
3.18 purposes of paragraph (a), clause (3).

3.19 **EFFECTIVE DATE.** This section is effective July 1, 2019.

3.20 Sec. 4. Minnesota Statutes 2018, section 590.11, subdivision 7, is amended to read:

3.21 Subd. 7. **Order.** If, after considering all the files and records admitted and any evidence
3.22 admitted at a hearing held pursuant to subdivision 4, the court determines that the petitioner
3.23 is eligible for compensation, the court shall issue an order containing its findings and, if
3.24 applicable, indicate the portion of the term of ~~imprisonment~~ incarceration for which the
3.25 petitioner is entitled to make a claim. The court shall notify the petitioner of the right to file
3.26 a claim for compensation under sections 611.362 to 611.368 and provide the petitioner with
3.27 a copy of those sections. The petitioner must acknowledge receipt of the notice and a copy
3.28 of those sections in writing or on the record before the court.

3.29 Sec. 5. Minnesota Statutes 2018, section 611.365, subdivision 2, is amended to read:

3.30 Subd. 2. **Reimbursement; monetary damages; attorney fees.** (a) The claimant is
3.31 entitled to reimbursement for all restitution, assessments, fees, court costs, and other sums

4.1 paid by the claimant as required by the judgment and sentence. In addition, the claimant is
4.2 entitled to monetary damages of not less than \$50,000 for each year of ~~imprisonment~~
4.3 incarceration, and not less than \$25,000 for each year served on supervised release or
4.4 probation or as a registered predatory offender, to be prorated for partial years served. In
4.5 calculating additional monetary damages, the panel shall consider:

4.6 (1) economic damages, including reasonable attorney fees, lost wages, reimbursement
4.7 for costs associated with the claimant's criminal defense;

4.8 (2) reimbursement for medical and dental expenses that the claimant already incurred
4.9 and future unpaid expenses expected to be incurred as a result of the claimant's ~~imprisonment~~
4.10 incarceration;

4.11 (3) noneconomic damages for personal physical injuries or sickness and any nonphysical
4.12 injuries or sickness incurred as a result of ~~imprisonment~~ incarceration;

4.13 (4) reimbursement for any tuition and fees paid for each semester successfully completed
4.14 by the claimant in an educational program or for employment skills and development training,
4.15 up to the equivalent value of a four-year degree at a public university, and reasonable
4.16 payment for future unpaid costs for education and training, not to exceed the anticipated
4.17 cost of a four-year degree at a public university;

4.18 (5) reimbursement for paid or unpaid child support payments owed by the claimant that
4.19 became due, and interest on child support arrearages that accrued, during the time served
4.20 in prison provided that there shall be no reimbursement for any child support payments
4.21 already owed before the claimant's incarceration; and

4.22 (6) reimbursement for reasonable costs of paid or unpaid reintegrative expenses for
4.23 immediate services secured by the claimant upon exoneration and release, including housing,
4.24 transportation and subsistence, reintegrative services, and medical and dental health care
4.25 costs.

4.26 (b) The panel shall award the claimant reasonable attorney fees incurred in bringing a
4.27 claim under sections 611.362 to 611.368 and in obtaining an order of eligibility for
4.28 compensation based on exoneration under chapter 590.

4.29 **EFFECTIVE DATE.** This section is effective July 1, 2019.

4.30 Sec. 6. Minnesota Statutes 2018, section 611.365, subdivision 3, is amended to read:

4.31 Subd. 3. **Limits on damages.** There is no limit on the aggregate amount of damages
4.32 that may be awarded under this section. Damages that may be awarded under subdivision

5.1 2, paragraph (a), clauses (1) and (4) to (6), are limited to \$100,000 per year of ~~imprisonment~~
5.2 incarceration and \$50,000 per year served on supervised release or probation or as a registered
5.3 predatory offender.

5.4 **EFFECTIVE DATE.** This section is effective July 1, 2019.

5.5 Sec. 7. Minnesota Statutes 2018, section 611.367, is amended to read:

5.6 **611.367 COMPENSATING EXONERATED PERSONS; APPROPRIATIONS**
5.7 **PROCESS.**

5.8 The compensation panel established in section 611.363 shall forward an award of damages
5.9 under section 611.365 to the commissioner of management and budget. The commissioner
5.10 shall submit the amount of the award to the legislature for consideration as an appropriation
5.11 ~~during the next session of the legislature.~~

5.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

5.13 Sec. 8. Minnesota Statutes 2018, section 611.368, is amended to read:

5.14 **611.368 SHORT TITLE.**

5.15 Sections 611.362 to 611.368 shall be cited as the "~~Imprisonment~~ Incarceration and
5.16 Exoneration Remedies Act."

5.17 **EFFECTIVE DATE.** This section is effective July 1, 2019.