
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 530 **Hearing Date:** April 11, 2023
Author: Bradford
Version: March 29, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Exoneration: compensation*

HISTORY

Source: After Innocence

Prior Legislation: AB 160 (Budget) Chapter 771, Stats. 222
SB 993 (Skinner) Not heard on Assembly Floor 2022
SB 269 (Bradford) Chapter 473, Stats. 2019
SB 299 (Leyva), Assembly Floor Inactive, 2021
AB 767 (Grayson), held in Sen. Appropriations, 2020
SB 329 (Kamlager), was not heard by Sen. Public Safety, 2020
SB 375 (Durazo), Ch. 375, Stats. 2019
AB 629 (Smith), Ch. 575, Stats. 2019
AB 415 (Maienschein), Ch. 572, Stats. 2019
SB 1232 (Bradford), Ch. 983, Stats. 2018
AB 2226 (Patterson), Ch. 142, Stats. 2018
AB 1140 (Bonta), Ch. 569, Stats. 2015
AB 2809 (Leno), Ch. 587, Stats. 2008
AB 2869 (Leno), Ch. 582, Stats. 2006

Support: California Public Defenders Association; San Francisco Public Defender's Office

Opposition: None known

PURPOSE

The purpose of this bill is to make changes to compensation for a person who has been exonerated including removing the requirement the person be imprisoned to present a claim; remove the requirement the person needs to prove an injury; extends the deadline for filing a claim; and provide for compensation for erroneously having to register as a sex offender.

Existing law provides that any person who, having been convicted of any crime against the state amount to a felony, and imprisoned in the state prison or county jail, is granted a pardon by the Governor for the reason that the crime with which they were charged was either not committed at all or, if committed, was not committed by the person or who, being innocent of the crime with which they were charged for either of these reasons has served the term or any part thereof, may

present a claim against the state to the California Victim Compensation Board (CVCB) for the injury sustained by the person through the erroneous conviction and imprisonment or incarceration. (Penal Code § 4900)

This bill deletes the requirement that the person convicted served time in prison or jail.

This bill includes a person required to register as a sex offender as one of the things for which a person can be compensated.

Existing law that a claim is required to be presented by the claimant to the CVCB within a period of 10 years after judgement of acquittal, dismissal of charges, pardon granted, or release from custody, whichever is later. (Penal Code § 4901)

Existing law provides that when a person is factually innocent, under specified provisions, the CVCB shall, within 30 days of the presentation of the claim, calculate the compensation for the claimant and approve payment to the claimant if sufficient funds are available, upon appropriation by the Legislature. (Penal Code § 4902)

This bill changes the changes the time for filing to 90 days and requires the Attorney General to respond to the claim within 60 days, except upon a showing of good cause.

Existing law provides that except in cases where the person has been declared factually innocent or charges have subsequently been dismissed, the CVCB shall fix a time and place of the hearing of a claim. AT the hearing the claimant shall introduce evidence in support of the claim, and the Attorney General may introduce evidence in opposition. The claimant shall prove the facts set forth in the statement constituting the claim, including the fact that the crime with which they were charged was either not committed at all, or, if committed was not committed by the claimant, and the injury sustained by them through their erroneous conviction and incarceration. (Penal Code § 4903)

This bill deletes the requirement that the claimant prove “the injury sustained by them though their erroneous conviction and incarceration” and instead provides they may show that the claimant served all or part of the sentence as a result of their erroneous conviction.

Existing law provides that if the evidence shows that the crime with which the claimant was charged was either not committed at all, or if committed, was not committed by the claimant, or the Attorney General’s office has not met the burden of proving by clear and convincing evidence that the claimant committed the acts constituting the offense, the CVCB has found the claimant has sustained injury through their erroneous conviction and imprisonment the CVCB shall approve payment for the purpose of indemnifying the claimant for the injury. The amount of payment shall be \$140 per day and \$70 per day if the person was on parole or supervised release. (Penal Code § 4904)

This bill provides that a person who, solely due to an erroneous conviction, spent time on parole, on supervised release, or who was required to register as a sex offender, prior to July 1, 2024 may bring a petition for compensation on or before July 1 2027.

This bill provides a person who previously brought a petition, and who solely due to an erroneous conviction, spent time on parole, on supervised release, or who was required to register as sex offender, may bring a supplementary petition on or before July 1, 2027, for compensation.

This bill provides that it shall become operative on July 1, 2024, only if General Fund moneys are available to support ongoing augmentations and actions and if an appropriation is made to backfill the Restitution Fund to support the actions in this section.

COMMENTS

1. Need for This Bill

According to the author:

SB 530 would improve compensation for individuals who prove they were convicted of crimes they did not commit, by providing compensation for time the individuals were wrongfully required to register as a sex offender, and ensuring that claimants get to keep their awards, by reimbursing attorney's fees, costs and expenses incurred in overturning the wrongful conviction or obtaining a pardon, and in obtaining compensation for wrongful conviction. The bill makes other technical changes, and also provides a one-time lookback window through which individuals who were awarded compensation in the past may apply for the additional compensation this bill provides for time wrongfully spent on parole, supervised release or as a registered sex offender as a result of the wrongful conviction.

2. Compensation for registration as a sex offender

Under existing law, a person who is erroneously convicted and because of that conviction was required to register as sex offender, is not compensated for the time they were required to register. This bill provides that compensation in the amount of \$70 per day is available to a person erroneously convicted and solely because of that conviction is required to register as a sex offender.

3. Imprisonment requirement

Under existing law in order to be eligible for compensation there is a requirement that the person was incarcerated for a felony. This bill removes the requirement that a person was incarcerated. A person wrongfully convicted can suffer the employment, education, and housing implications that come with a conviction on one's record, whether or not they serve time in prison or jail. This bill acknowledges that by making it clear those people are eligible for compensation.

4. Change in time frame

This bill changes the time frame for the CVCB to calculate the compensation in specified cases from 30 to 90 days. It also requires the Attorney General to respond to those claims within 60 days.

5. Argument in Support

The California Public Defenders Association supports this bill stating:

SB 530 would make a number of reforms to the requirements and procedures for an individual who was erroneously convicted to receive compensation. Specifically, SB 530 would eliminate the current requirement to show “injury” in order to receive compensation for any penalties associated with the erroneous conviction, provide compensation of \$70.00 per day for an individual required to register as a sex offender as a result of an erroneous conviction, and extend the deadline for the Victim’s Compensation Board to process a claim for damages for an erroneous conviction among other commonsense reforms, such as allowing for reasonable attorney fees for the erroneously individual to obtain relief.

SB 530 provides a practical and efficient approach to real life barriers for system impacted individuals who were wrongfully convicted such as acknowledging that wrongfully convicted individuals suffered injury because of the wrongful conviction. By recognizing this as self-evident, the legislature is making real efforts to compensate the wrongfully convicted. Furthermore, the provision of costs and attorney fees being available to seek relief for wrongful convictions will serve as a check on injustice by encouraging the legal community to aid individuals seeking review of their convictions. SB 530 is an important step in California’s effort to rectify past injustice and to provide compensation to the wrongly convicted, their families and their communities

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