

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2480

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DATE	D-PG	OFFICIAL STATUS
03/10/2014	6072	Introduction and first reading Referred to Judiciary
03/17/2014	6249a	Comm report: To pass as amended and re-refer to Finance
04/10/2014	8096a	Comm report: To pass as amended
	8199	Second reading
04/30/2014	8534	HF substituted on General Orders HF2925

A bill for an act

relating to criminal justice; establishing a process for compensation of certain exonerated persons; authorizing expungement of records; appropriating money; amending Minnesota Statutes 2012, section 609A.02, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 590; 611.

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

Section 1. [590.11] ORDER DETERMINING ELIGIBILITY FOR COMPENSATION BASED ON EXONERATION.

Subdivision 1. Definition. For purposes of this section, "exonerated" means that:

(1) a court of this state:

(i) vacated or reversed a judgment of conviction, including all convictions arising out of the same behavioral incident, and the prosecutor dismissed the charges; or

(ii) ordered a new trial and the prosecutor dismissed the charges or the petitioner was found not guilty at the new trial; and

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

Subd. 2. Procedure. A petition for an order declaring eligibility for compensation based on exoneration under sections 611.362 to 611.368 must be brought before the district court where the order resulting in the exoneration was obtained. The state must be represented by the prosecutor who obtained the conviction or the prosecutor's successor.

Within 20 days after the filing of the petition, the prosecutor must respond to the petition.

A petition may be brought within two years after the petitioner is exonerated or at a later time if the petitioner establishes that the petition is not frivolous and is in the interests of justice. Persons released from custody on grounds consistent with exoneration before

2.1 the effective date of this section may commence an action under this section within two
2.2 years of the effective date.

2.3 Subd. 3. **Compensation based on innocence.** An individual who is exonerated
2.4 is eligible for compensation based on the establishment of innocence if the petitioner
2.5 establishes by a preponderance of the evidence that a crime was not committed or that the
2.6 crime was not committed by the petitioner.

2.7 Subd. 4. **Compensation without establishing innocence.** An individual who
2.8 is exonerated is eligible for compensation without establishing innocence if newly
2.9 discovered evidence was the basis for the exoneration and the prosecutor, within 60 days
2.10 of the filing of the petition, joins in the petition and indicates that it is likely that the
2.11 original complaint would not have been filed or would have been dismissed if the newly
2.12 discovered evidence had been available.

2.13 Subd. 5. **Evidence.** District court records related to the conviction and the
2.14 exoneration are admissible in a proceeding under this section. A written affidavit or verbal
2.15 statement on the record by the prosecutor who obtained the conviction or the prosecutor's
2.16 successor is admissible to support or refute the petition. The prosecutor may address the
2.17 prosecutor's decision to dismiss the charges or other information that may not be fully
2.18 reflected in the proceedings resulting in exoneration. Acts by the petitioner that may have
2.19 contributed to bringing about the conviction may be considered.

2.20 Subd. 6. **Elements.** (a) A claim for compensation arises if a person is eligible for
2.21 compensation under subdivision 3 or 4 and:

2.22 (1) the person was convicted of a felony and served any part of the imposed sentence
2.23 in prison;

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

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

2.28 (4) the person was not serving a term of imprisonment for another crime at the same
2.29 time, provided that if the person served additional time in prison due to the conviction that
2.30 is the basis of the claim, the person may make a claim for that portion of time served in
2.31 prison during which the person was serving no other sentence.

2.32 (b) A claimant may make a claim only for that portion of time served in prison
2.33 during which the claimant was serving no other sentence.

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

3.1 Subd. 7. **Order.** If the court determines that the petitioner is eligible for
3.2 compensation based on exoneration under subdivision 3 or 4, the court shall issue an order
3.3 containing its findings and, if applicable, indicate the portion of the term of imprisonment
3.4 for which the petitioner is entitled to make a claim. The court shall notify the petitioner of
3.5 the right to file a claim for compensation under sections 611.362 to 611.368 and provide
3.6 the petitioner with a copy of those sections. The petitioner must acknowledge receipt of
3.7 the notice and a copy of those sections in writing or on the record before the court.

3.8 Subd. 8. **Appeal.** An order issued under this section may be appealed as provided
3.9 for under section 590.06, except that service of the notice of appeal on the attorney
3.10 general is not required.

3.11 Sec. 2. Minnesota Statutes 2012, section 609A.02, subdivision 3, is amended to read:

3.12 Subd. 3. **Certain criminal proceedings not resulting in conviction resolved in**
3.13 **favor of defendant.** (a) A petition may be filed under section 609A.03 to seal all records
3.14 relating to an arrest, indictment or information, trial, or verdict if the records are not
3.15 subject to section 299C.11, subdivision 1, paragraph (b), and if all pending actions or
3.16 proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict
3.17 of not guilty by reason of mental illness is not a resolution in favor of the petitioner.

3.18 (b) For purposes of this chapter, an action or proceeding is resolved in favor of the
3.19 petitioner if the petitioner received an order under section 590.11 determining that the
3.20 petitioner is eligible for compensation based on exoneration.

3.21 Sec. 3. **[611.362] CLAIM FOR COMPENSATION BASED ON EXONERATION.**

3.22 Subdivision 1. **General.** A person who receives an order under section 590.11
3.23 determining that the person is entitled to compensation based on exoneration may bring
3.24 a claim for an award under sections 611.362 to 611.368.

3.25 Subd. 2. **Process; filing requirement.** The state must be named as the respondent.
3.26 A claimant shall serve the claim and all documents on the state through the commissioner
3.27 of management and budget and file the claim with the Supreme Court. The claim must
3.28 include a copy of the order issued by the district court under section 590.11, subdivision 7.
3.29 The state shall respond to the claim within 60 days after service.

3.30 Subd. 3. **Agent for claimant.** If a person entitled to file a claim is incapacitated and
3.31 incapable of filing the claim or is a minor or nonresident of the state, the claim may be
3.32 filed on behalf of the claimant by a court-appointed guardian, the parent or guardian of
3.33 a minor, or an authorized agent.

4.1 Subd. 4. **Statute of limitations.** A claimant may commence a claim under this
4.2 section within two years after the date the order was issued under section 590.11,
4.3 subdivision 7, provided that if the person did not receive the notice required under section
4.4 590.11, subdivision 7, the person may commence a claim within three years of that date.
4.5 An action by the state challenging or appealing the order under section 590.11 tolls the
4.6 two-year period. Persons released from custody on grounds consistent with exoneration
4.7 before the effective date of this section may commence an action under this section within
4.8 two years of the effective date.

4.9 Sec. 4. **[611.363] COMPENSATION PANEL.**

4.10 Subdivision 1. **Appointment.** Within 30 business days after the claim is filed with
4.11 the Supreme Court, the chief justice of the Supreme Court shall appoint a compensation
4.12 panel of three attorneys or judges who are responsible for determining the amount of
4.13 damages to be awarded. Members of the panel must have experience in legal issues
4.14 involving the settlement of tort claims and the determination of damages.

4.15 Subd. 2. **Compensation of panel members; procedures.** (a) Members of the
4.16 panel are entitled to the compensation authorized for members of boards under section
4.17 15.0575, subdivision 3.

4.18 (b) Consistent with sections 611.362 to 611.368, the panel may establish procedures,
4.19 rules, and forms for considering claims and awarding damages.

4.20 Subd. 3. **Payment of expenses.** The state court administrator shall forward
4.21 documentation of expenses and administrative costs of the panel to the commissioner of
4.22 management and budget for payment of those amounts from appropriations available
4.23 for this purpose.

4.24 Sec. 5. **[611.364] PREHEARING SETTLEMENTS AND HEARING.**

4.25 Subdivision 1. **Prehearing settlements.** The panel may set a prehearing settlement
4.26 conference date. At this conference, the parties must make a good faith attempt to reach a
4.27 settlement in the case. If the parties agree, they may present the panel with a joint motion
4.28 for summary disposition and no further hearings are required. If a settlement document is
4.29 approved by the panel, it has the same effect as an award under section 611.365, for all
4.30 purposes of that section.

4.31 Subd. 2. **Hearing.** (a) If the parties are unable to reach a settlement, the panel must
4.32 hold an evidentiary hearing to determine the amount of damages to be awarded to the
4.33 claimant. The panel may consider any evidence and argument submitted by the parties,

5.1 including affidavits, documentation, and oral and written arguments. The panel is bound
5.2 by any fact or damage amount established by the stipulation of the parties.

5.3 (b) Hearings and records relating to the hearing are open to the public, except where,
5.4 in the interest of justice, the panel orders a hearing closed or a record sealed.

5.5 **Sec. 6. [611.365] DAMAGES.**

5.6 Subdivision 1. **General.** A claimant is entitled to the damages provided for in
5.7 this section.

5.8 Subd. 2. **Reimbursement; monetary damages; attorney fees.** (a) The claimant is
5.9 entitled to reimbursement for all restitution, assessments, fees, court costs, and other sums
5.10 paid by the claimant as required by the judgment and sentence. In addition, the claimant
5.11 is entitled to monetary damages of not less than \$50,000 for each year of imprisonment,
5.12 and not less than \$25,000 for each year served on supervised release or as a registered
5.13 sex offender, to be prorated for partial years served. In calculating monetary damages,
5.14 the panel shall consider:

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

5.17 (2) reimbursement for medical and dental expenses that the claimant already incurred
5.18 and future unpaid expenses expected to be incurred related to the claimant's imprisonment;

5.19 (3) noneconomic damages for personal physical injuries or sickness and any
5.20 nonphysical injuries or sickness incurred during or as a result of imprisonment;

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

5.26 (5) reimbursement for paid or unpaid child support payments owed by the claimant
5.27 that became due, and interest on child support arrearages that accrued, during the time
5.28 served in prison; and

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

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

6.1 Subd. 3. **Limits on damages.** There is no limit on the aggregate amount of damages
6.2 that may be awarded under this section. Damages that may be awarded under subdivision 2,
6.3 paragraph (b), clauses (1) and (4) to (6), are limited to \$100,000 per year of imprisonment
6.4 and \$50,000 per year served on supervised release or as a registered sex offender.

6.5 Subd. 4. **Notice and acceptance of award.** A claimant who is awarded damages
6.6 under this section must be provided with a written notice of the award, which must include
6.7 an itemization of the total damage award calculation. A claimant's acceptance of an award,
6.8 compromise, or settlement must be in writing and is final and conclusive on the claimant.

6.9 Subd. 5. **Subsequent damage awards.** Any future damages awarded to the
6.10 claimant resulting from an action by the claimant against the state or a political subdivision
6.11 of this state based on the same subject must be offset by the damage award received
6.12 under this section.

6.13 Subd. 6. **No offsets.** The damage award must not be offset by:

6.14 (1) any expenses incurred by the state or any political subdivision of the state,
6.15 including expenses incurred to secure the claimant's custody or to feed, clothe, or provide
6.16 medical services for the claimant; or

6.17 (2) the value of any services or reduction in fees for services, or the value of services
6.18 to be provided to the claimant that may be awarded to the claimant under this section.

6.19 Subd. 7. **Survival of claim.** A pending order issued under section 590.11,
6.20 subdivision 7, or claim under sections 611.362 to 611.368, survives the death of the
6.21 petitioner or claimant and the personal representative of the person may be substituted
6.22 as the claimant or bring a claim.

6.23 Subd. 8. **Child support payments.** The amount of an award that represents
6.24 reimbursement for child support payments or lost wages is subject to execution for
6.25 payment of child support arrearages and interest.

6.26 Sec. 7. **[611.366] JUDICIAL REVIEW.**

6.27 A party aggrieved by an award of damages under section 611.365 is entitled
6.28 to judicial review of the decision as provided in sections 14.63 to 14.69; however,
6.29 proceedings on a complaint filed under this section are not a contested case within the
6.30 meaning of chapter 14 and are not otherwise governed by chapter 14.

6.31 Sec. 8. **[611.367] COMPENSATING EXONERATED PERSONS;**
6.32 **APPROPRIATIONS PROCESS.**

6.33 The compensation panel established in section 611.363 shall forward a final award
6.34 of damages under section 611.365 to the commissioner of management and budget.

7.1 The commissioner shall submit the amount of the final award to the legislature for
7.2 consideration during the next session of the legislature.

7.3 Sec. 9. **[611.368] SHORT TITLE.**

7.4 Sections 611.362 to 611.368 may be cited as the Imprisonment and Exoneration
7.5 Remedies Act.

7.6 Sec. 10. **APPROPRIATION.**

7.7 \$3,000 is appropriated from the general fund for the fiscal year ending June 30,
7.8 2015, to the commissioner of management and budget for expenses incurred by the
7.9 compensation panel described in Minnesota Statutes, section 611.363.