

OneFAB

Information Delivered on One Page, Front And Back

Wrongful Imprisonment Compensation Fund

Cory Savino, Fiscal Analyst

Wrongful Imprisonment Compensation Act

The Wrongful Imprisonment Compensation Fund was created under Public Act 343 of 2016 within the Department of Treasury to compensate individuals wrongfully convicted and imprisoned. An award under the Act includes compensation for the time spent in prison and attorney fees incurred in an action under the Act. The compensation for the time spent in prison is established at \$50,000 for each year the plaintiff was imprisoned with proration for a partial year of imprisonment. The compensation for the attorney fees may not exceed \$50,000 or 10% of the total amount awarded for compensation, whichever is less. A plaintiff is not eligible for compensation if: 1) he or she was convicted of another crime arising from the same transaction, and 2) either the offense was not dismissed or the plaintiff was convicted of that offense on trial. Also, compensation may not be awarded for any time the plaintiff was imprisoned under a concurrent or consecutive sentence for another conviction. The Act prescribes an 18-month filing deadline under which that an individual must commence an action with the Court of Claims to seek compensation. The Attorney General and the individual seeking compensation have the option to appeal initial Court of Claims rulings on compensation claims.

Once an award amount has been determined by the Court of Claims, the Act authorizes the Court to select one of two options to pay the award. The first option is to issue the entire award amount to the individual in one lump-sum payment. The second option is to issue the award amount over multiple payments. If the second option is selected, the initial payments must be at least 20% of the total award amount, and the remainder of the payments must be made within 10 years. All of the awards that have been paid out under the Wrongful Imprisonment Compensation Act to date have been single, lump-sum payments.

Wrongful Imprisonment Compensation Fund

When the Wrongful Imprisonment Compensation Act was enacted, there were 26 individuals who were identified as being eligible for compensation under the Act. The total compensation to be paid, assuming all 26 claims were approved, was estimated to be approximately \$13.1 million. After including the maximum possible amount for attorney fees (\$1.3 million), the total amount estimated for claims was \$14.4 million.

There are an unknown number of individuals who will seek compensation, qualify under the Act, and receive one of the two payment options. The initial amount deposited in the Wrongful Imprisonment Compensation Fund was \$5.0 million in fiscal year (FY) 2016-17 from a supplemental appropriation in Public Act 107 of 2017. After enactment and the initial deposit into the Wrongful Imprisonment Compensation Fund, 41 individuals have been identified as being eligible for compensation under the Act. Of those cases, 14 either have been dismissed by the Court of Claims or currently have an appeal pending for a dismissal ruling. To date, five individuals have been awarded compensation under the Act. Below are the plaintiffs and the award amounts paid out, including attorney fees:

Plaintiff	Payment
Carter, Edward	\$1,783,657
Carter, Quentin	839,191
McHenry, Marwin	187,318
Ricks, Desmon	1,034,853
Sanford, Davontae	433,356
Total	\$4,278,375

Insufficient Funding Notice

Under the Act, the Department of Treasury is required to notify the Legislature that money in the Fund may be insufficient to cover future claims when the Treasurer believes that, within 60 days, the money in the Fund will be insufficient. On September 19, 2018, the Department of Treasury issued the 60-day notice to the Legislature. The notice was issued because of three expected settlements currently pending before the courts. Below are the three plaintiffs and estimated award amounts:

Plaintiff	Payment
Cleary, Mark	\$650,000
Hatchett, Nathaniel.....	550,000
Peterson, Jamie	271,416
Total	\$1,471,416

With the initial \$5.0 million deposit into the Fund, plus \$20,169 generated in interest, there was a total \$5,020,169 balance in the Fund. With the previous award payments of \$4,278,375, there is currently \$741,794 remaining in the Fund. With the total estimated payments award amount of \$1,471,416, there will be a shortfall of \$726,622 in the Fund. This shortfall does not include potential amounts for other individuals who are seeking compensation through the claims process.

Looking into the Future

Governor Snyder proposed a \$1.5 million supplemental deposit into the Wrongful Imprisonment Compensation Fund, which was adopted under Public Act 618 of 2018. This deposit is enough to cover the most immediate claims with \$770,377 remaining in the Fund after those claims are paid out. However, there are two new claims being pursued that total between \$1.9 million and \$3.1 million; these claims could be paid out in 2019. If these and other claims are pursued during the 2018-19 fiscal year and those claimants receive single, lump-sum payments, additional deposits into the Fund could be required in FY 2018-19.