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Wrongful Imprisonment Compensation Fund

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Wrongful Imprisonment Compensation Act

The Act established the Wrongful Imprisonment Compensation Fund within the Department of Treasury to compensate individuals who have been wrongfully convicted and imprisoned (MCL 691.751 and 691.1757). Under the Act, an award includes compensation for the time spent in prison and attorney fees. The compensation for the time spent in prison is set at \$50,000 for each year the plaintiff was imprisoned with proration for a partial year of imprisonment. 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 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

Since the Wrongful Imprisonment Compensation Act was enacted in 2016, 49 individuals have been identified as eligible for compensation under the Act. The total compensation amount if all 49 claims were approved has been estimated to be approximately \$30.7 million, which includes the maximum amount possible for attorney fees. To date, 24 individuals have sought compensation, qualified under the Act, and received payment. Payouts to wrongfully convicted individuals have totaled \$18.5 million.

There have been four deposits into the Fund since its creation. Initially, \$5.0 million was deposited into the Fund in fiscal year (FY) 2016-17 from a supplemental appropriation in Public Act (PA) 107 of 2017. Since then, the following deposits have been made: \$1.5 million in FY 2018-19 under PA 618 of 2018, \$10.0 million in FY 2018-19 under PA 28 of 2019, and \$10.0 million in FY 2019-20 under PA 56 of 2019. Combined deposits total \$27.5 million with an additional \$300,000 in interest generated over that time. The table below displays the balances for the Wrongful Imprisonment Compensation Fund for each fiscal year since FY 2016-17.

As of October 1, 2019, the Fund had a balance of \$8,303,596 after payments to the 24 eligible individuals were made. Of the 25 cases (totaling \$12.2 million in claims) that have been identified but not received a settlement, 19 cases (totaling \$8.1 million in claims) have been dismissed or challenged, while six individuals (totaling \$4.1 million in claims) either have not received a final judgment or have not made a claim. There are sufficient funds available to make payments for the current cases that have not yet received payment or been dismissed.

Fiscal Year	Deposits	Claims Paid	Remaining Balance
2016-17	\$5,000,000	\$4,253,640	\$746,360
2017-18	0	513,658	232,702
2018-19	11,500,000	5,897,050	6,835,652
2019-20*	10,000,000	8,826,203	8,303,596

*Remaining balance include total interest generated since FY 2016-17

Pending Legislation

The State either has dismissed or challenged claims by 19 individuals, totaling \$8.1 million. Claims have been challenged or dismissed for a variety of reasons, e.g., failure to make claims in a timely manner or failure to provide sufficient evidence the plaintiff did not commit the crime. Of these cases, 10 were dismissed for failing to make a claim with the Court of Claims within the six-month timeframe specified in the Revised Judicature Act.

Senate Bills 68 and 69 and House Bills 5117 and 5118 would exempt claims made under the Wrongful Imprisonment Compensation Act from the six-month timeframe. The 10 claims that have been time-barred total \$2.6 million. If either set or a combination of these bills were enacted, the claims then would be eligible to receive payment. There are sufficient funds in the Wrongful Imprisonment Compensation Fund to pay these claims should the bills be enacted. Afterward, there would be \$1.6 million available to make payments on new cases that could arise.