
A BILL FOR AN ACT

RELATING TO WRONGFUL IMPRISONMENT.

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

1 SECTION 1. The legislature finds that Act 156, Session
2 Laws of Hawaii 2016, (Act 156) was enacted to monetarily
3 compensate individuals who had been wrongfully convicted and
4 imprisoned in the Hawai'i criminal justice system. Act 156
5 established a compensation scheme, which has been in effect for
6 eight years, to provide redress to those who have been
7 wrongfully imprisoned.

8 The legislature further finds that in its findings for
9 Act 156, it found that individuals who were wrongfully convicted
10 and imprisoned by the State deserved "an avenue of redress over
11 and above the existing tort remedies to seek compensation for
12 damages from the jurisdiction that convicted and imprisoned
13 them". The legislature also finds that existing law stipulates
14 that if a court finds that a person has proven a claim for
15 wrongful conviction and imprisonment, the court is required to
16 award the person \$50,000 for each year of actual confinement,
17 including time spent awaiting trial. The legislature recognized



1 that although the compensation process does not explicitly
2 require a court trial to determine if a petitioner is entitled
3 to compensation and the amount of compensation, in practice,
4 petitioners have been subjected to lengthy trials. According to
5 the National Registry of Exonerations, of the thirty-eight
6 states who have wrongful conviction and imprisonment laws, the
7 State is the only one to have not rendered payment to any
8 claimants.

9 The legislature recognizes the recent Hawai'i supreme court
10 decision in *Jardine v. Hawai'i*, 155 Haw. 60 (2024). The court
11 considered the language of section 661B-1, Hawaii Revised
12 Statutes, which in part requires that a petitioner's judgment of
13 conviction be reversed or vacated "because the petitioner was
14 actually innocent of the crimes for which the petitioner was
15 convicted, and the court decision so states". The Hawai'i
16 supreme court held that the statute does not require the exact
17 words "actual innocence" to appear in the order. However, the
18 court also held that the statute "does, however, require that
19 such an order state a finding that supports a petitioner's
20 actual innocence - that is, the order should support the
21 conclusion that the petitioner did not commit the crime".



1 The legislature also finds that wrongful compensation
2 claims in Hawai'i have often been subject to prolonged litigation
3 and delay, including delay caused by the State. The prolonged
4 uncertainty and financial hardship caused by a delay is unjust
5 to those wrongfully convicted. In at least one situation, the
6 wrongfully convicted individual passed away before receiving any
7 compensation after almost a decade of litigation seeking
8 compensation. The legislature finds that these unresolved
9 claims are also a potential liability to the State. The
10 legislature therefore concludes that rather than allow claims
11 for compensation for wrongful conviction and imprisonment to
12 languish for years, the law should be amended to give certainty
13 to the budgeting process and to those were wrongfully convicted.

14 Accordingly, the purpose of this Act is to:

- 15 (1) Establish the procedure that a court of the State
16 shall follow upon the reversal or vacation of an
17 individual's judgment or conviction on grounds
18 consistent with innocence, and where the chargers were
19 dismissed;
- 20 (2) Require the State to pay advance compensation to any
21 person who was convicted in a court of the State,



1 imprisoned for at least one year, and whose judgment
2 of conviction was reversed or vacated, or was
3 pardoned, on grounds consistent with innocence;

4 (3) Require the department of corrections and
5 rehabilitation to assign a case manager to a
6 petitioner upon the petitioner's release;

7 (4) Require the State to provide medical coverage to a
8 person for a certain duration upon the reversal or
9 vacation of a person's judgment of conviction on
10 grounds consistent with innocence and where the
11 chargers were dismissed;

12 (5) Require the comptroller to issue a warrant for payment
13 of advance compensation to a petitioner;

14 (6) Require the department of the attorney general to
15 submit an annual report to the legislature;

16 (7) Clarify that a person whose judgment of conviction was
17 reversed or vacated, or who was pardoned, on grounds
18 consistent with innocence, and where the chargers were
19 dismissed, may petition for redress; and

20 (8) Require the State to prove by a preponderance of
21 evidence that the reversal or vacating of the order of



conviction for a petitioner, or the pardoning of the petitioner, was inconsistent with innocence.

SECTION 2. Chapter 661B, Hawaii Revised Statutes, is amended by adding six new sections to be appropriately designated and to read as follows:

"§661B-A Liberal construction. This chapter shall be liberally construed to ensure that those persons who were wrongfully convicted and imprisoned by the State receive compensation.

§661B-B Reversal or vacation of conviction; procedure.

(a) Upon the reversal or vacation of a judgment or conviction on grounds consistent with innocence, and where the charges were dismissed, the court shall:

(1) Provide oral and written notice of the person's ability to file a claim under this chapter;

(2) Award advance compensation payments pursuant to section 661B-C;

(3) Order the department of corrections and rehabilitation to assign a case manager to the person pursuant to section 661B-D;

(4) Make the following findings:



1 (A) Whether the person was convicted in a court of
2 the State and subsequently imprisoned for one or
3 more crimes and the crime or crimes upon which
4 that conviction was based were reversed or
5 vacated;

6 (B) Whether the grounds for the reversal or vacation
7 of the crime or crimes support the conclusion
8 that the person did not commit the crime or
9 crimes;

10 (C) Whether the chargers were dismissed;

11 (D) The number of years, months, and days that the
12 person spent in prison for the crime or crimes
13 described in subparagraph (B), including time
14 served prior to conviction, if any; and

15 (E) At the rate of \$50,000 for each year of actual
16 confinement, including time spent awaiting trial,
17 the amount of total compensation the person would
18 receive under section 661B-3;

19 (5) If the person wishes to seek relief pursuant to this
20 chapter at the time of the reversal or vacation and
21 the court answers in the affirmative with respect to



1 paragraphs (4) (A) and (B), the court shall order the
2 award as calculated pursuant to paragraph (4) (E);
3 provided that neither the State nor a county
4 prosecuting authority have filed new charges based on
5 the same alleged act or acts for which the petitioner
6 was originally convicted; and

7 (6) Award reasonable attorney's fees not exceeding \$10,000
8 pursuant so section 661B-3.

9 (c) A person does not waive their right to seek relief
10 pursuant to this chapter if they do not elect to seek relief at
11 the time of reversal or vacation.

12 **§661B-C Advance compensation; requirements.** (a) The
13 State shall pay advance compensation to any petitioner who was
14 convicted in a court of the State, imprisoned for at least one
15 year, and whose judgment of conviction was reversed or vacated,
16 or was pardoned, on grounds consistent with innocence; provided
17 that the chargers were dismissed and neither the State nor a
18 county prosecuting authority have filed new charges based on the
19 same alleged act or acts for which the petitioner was originally
20 convicted.



1 (b) Within five business days of the reversal or vacation
2 the comptroller shall issue a warrant pursuant to section 40-51
3 for a payment of \$5,000 to the petitioner. Subsequently, on the
4 first day of every month, the comptroller shall issue a warrant
5 for a payment of \$5,000 to the petitioner until the State has
6 paid in the aggregate an amount equal to the payment for one
7 year of imprisonment pursuant to section 661B-3(c); provided
8 that the payments shall cease if the attorney general or a
9 county prosecuting attorney files new charges based on the same
10 alleged act or acts for which the petitioner was originally
11 convicted.

12 (c) Any advance compensation paid to the petitioner shall
13 be deducted from any compensation to which the petitioner is
14 entitled under this chapter. If the petition is subsequently
15 denied, the petitioner shall not be required to repay any funds
16 disbursed.

17 §661B-D Case manager; appointment. (a) Upon the reversal
18 or vacation of a person's judgment of conviction on grounds
19 consistent with innocence and where the charges were dismissed,
20 the department of corrections and rehabilitation shall appoint a
21 case manager to the person. Services shall commence immediately



1 and continue for sixty days from the day of the person's
2 release.

3 (b) Case manager duties shall include assisting the person
4 in obtaining the following:

5 (1) Housing;

6 (2) State identification;

7 (3) Medical, dental, and mental health insurance and
8 appointments;

9 (4) A cell phone; and

10 (5) Employment.

11 **§661B-E Medical coverage; petitioner; spouse and**

12 **dependents.** (a) Upon the reversal or vacation of a person's
13 judgment of conviction on grounds consistent with innocence and
14 where the charges were dismissed, the person shall be eligible
15 to obtain medical coverage from the State.

16 (b) The medical coverage offered under subsection (a) may
17 include the person's spouse and dependents.

18 (c) The state shall provide medical coverage to a
19 petitioner under subsection (a) for a period of time equal to
20 that of the petitioner's wrongful imprisonment, including any
21 period during which the petitioner was released on parole.



1 §661B-F Annual report. The department of the attorney
2 general shall submit an annual report of its finding and
3 recommendations, including any proposed legislation, to the
4 legislature no later than twenty days prior to the convening of
5 each regular session. The report shall detail the
6 implementation and application of this chapter and shall include
7 the following:

8 (1) The name of any person for whom their judgment of
9 conviction was reversed or vacated, or who was
10 pardoned, on grounds consistent with innocence, and
11 for whom the charges were dismissed;

12 (2) Whether the State or a county prosecuting authority
13 filed new charges based on the same alleged act or
14 acts for which the petitioner was originally
15 convicted;

16 (3) The court's findings pursuant so section 661B-B;

17 (4) Whether the person chose to seek relief and whether
18 the person chose to do so at the time of reversal or
19 vacation, or later;

20 (5) If the person, subsequent to the court's findings,
21 filed a petition:



- 1 (A) The date the petition was filed;
2 (B) The circuit in which the petition was filed;
3 (C) Whether the department of the attorney general
4 granted or denied the petition;
5 (D) The date that the department of the attorney
6 general's response was filed; and
7 (E) The status of the petition on the date the report
8 is submitted; and
9 (6) Whether any compensation has been made to the
10 petitioner, including any advance compensation
11 pursuant rendered pursuant to section 661B-C, and the
12 dates that the compensation was disbursed.

13 SECTION 3. Section 661B-1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[+]§661B-1[+]~~ **Statement of claim for compensation.** ~~[(+)]~~
16 Any person convicted in a court of the State and imprisoned for
17 one or more crimes ~~[of which the person was actually innocent]~~
18 for whom the judgment of conviction was reversed or vacated, or
19 who was pardoned, on grounds consistent with innocence, and
20 where the charges were dismissed, may file a petition for relief
21 pursuant to this chapter for an award of damages against the



1 State; provided that the requirements of [~~subsection (b)~~] this
2 section are met[+]; provided further that the court has not
3 previously awarded compensation to the person pursuant to
4 section 661B-C.

5 [~~(b)~~] To present an actionable claim against the State for
6 wrongful conviction and imprisonment, the petitioner shall
7 allege that the petitioner was convicted of one or more crimes
8 under the laws of the State, was subsequently sentenced to a
9 term of imprisonment, and has served all or any part of the
10 sentence and either that[+]

11 ~~(1) The] the judgment of conviction was reversed or~~
12 ~~vacated [because the petitioner was actually innocent~~
13 ~~of the crimes for which the petitioner was convicted,~~
14 ~~and the court decision so states; or~~

15 ~~(2) The] and the charges were dismissed, or the petitioner~~
16 ~~was pardoned [because the petitioner was actually~~
17 ~~innocent of the crimes for which the petitioner was~~
18 ~~convicted and the pardon so states.] on grounds~~
19 ~~consistent with innocence and the charges were~~
20 ~~dismissed."~~



1 SECTION 4. Section 661B-3, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) through (c) to read:

4 "(a) The [~~petitioner~~] State shall have the burden to prove
5 by a preponderance of the evidence[+

6 ~~-(1) That the petitioner is eligible to seek compensation~~
7 ~~in accordance with the requirements set forth in~~
8 ~~section 661B-1;~~

9 ~~-(2) That the petitioner was convicted in a court of the~~
10 ~~State and subsequently imprisoned for one or more~~
11 ~~crimes, but the petitioner was actually innocent of~~
12 ~~the crimes at issue; and~~

13 ~~-(3) That the petitioner served time in prison for the~~
14 ~~crime or crimes, including time served prior to~~
15 ~~conviction, if any.] that the reversal or vacating of~~
16 ~~the order of conviction for the petitioner or the~~
17 ~~pardoning of the petitioner was inconsistent with~~
18 ~~innocence.~~

19 (b) The following shall be affirmative defenses, on which
20 the State shall have the burden of proof by a preponderance of
21 the evidence:



- 1 (1) The petitioner was serving a term of imprisonment for
2 another crime, including crimes under the laws of the
3 United States, concurrently with imprisonment for the
4 crime or crimes for which the petitioner, [was
5 ~~actually innocent;~~] whose judgment of conviction was
6 reversed or vacated or who was pardoned on grounds
7 consistence with innocence; provided that if the
8 petitioner served additional time in prison due to the
9 conviction that is the basis of the petition, then the
10 petitioner shall receive compensation for that portion
11 of the time served in prison during which the
12 petitioner was serving no other sentence;
- 13 (2) The petitioner committed perjury or fabricated
14 evidence or induced another person to commit perjury
15 or fabricate evidence to cause or bring about the
16 conviction at issue;
- 17 (3) The petitioner fabricated evidence or committed or
18 suborned perjury during any proceeding related to the
19 crime for which the petitioner was convicted;



1 (4) The petitioner solicited the commission of the crime
2 at issue or any crime factually related to the crime
3 at issue;

4 (5) The petitioner conspired to commit the crime at issue
5 or any crime factually related to the crime at issue;

6 (6) The petitioner attempted to commit the crime at issue
7 or any crime factually related to the crime at issue;

8 (7) The petitioner assisted in the commission of the crime
9 at issue or any crime factually related to the crime
10 at issue; or

11 (8) The petitioner assisted any person to avoid
12 apprehension, arrest, or conviction for the crime at
13 issue or any crime factually related to the crime at
14 issue.

15 If the State proves one or more of the affirmative defenses
16 enumerated in this subsection, the petitioner shall receive no
17 compensation except as provided in paragraph (1).

18 (c) If the court finds that the petitioner has [~~proven~~]
19 filed a claim for wrongful conviction and imprisonment[7] and
20 the State has not met its burden of proof under subsection (a)
21 or proven an affirmative defense pursuant to subsection (b), the



1 court shall award the petitioner \$50,000 for each year of actual
2 confinement, including time spent awaiting trial, served by the
3 petitioner for the crime or crimes for which the petitioner was
4 actually innocent; provided that:

5 (1) The petitioner shall not be compensated for the time
6 imprisoned if the petitioner was concurrently
7 imprisoned for a different conviction, even if the
8 other conviction was related to the conviction that
9 was vacated or reversed or for which the petitioner
10 was pardoned [~~because of actual innocence;~~] on grounds
11 consistent with innocence;

12 (2) The award shall be prorated for partial years of
13 imprisonment; [~~and~~]

14 (3) Any advance compensation paid to the petitioner shall
15 be deducted from the award; and

16 ~~[(3)]~~ (4) If the court finds, by a preponderance of the
17 evidence, extraordinary circumstances pertain to a
18 conviction that is set aside or a pardon that is
19 granted [~~because of actual innocence;~~] on grounds
20 consistent with innocence, the court may award the



petitioner a maximum of \$100,000 in additional
compensation."

2. By amending subsection (f) to read:

"(f) On all moneys awarded to the petitioner for claims
instituted under this chapter, interest shall be computed at the
rate of four per cent a year from the date of judgment up to,
but not exceeding, thirty days after the date of approval of any
appropriation act providing for payment of the judgment[+] or
after the date the comptroller was required to issue a warrant
pursuant to section 661B-C."

SECTION 5. Section 661B-6, Hawaii Revised Statutes, is
amended to read as follows:

"[+]§661B-6[+] **Waiver of sovereign immunity.** This chapter
shall constitute a waiver of sovereign immunity by the State
only for the claims brought pursuant to this chapter. The State
makes no other waiver of sovereign immunity, and fully retains
its sovereign immunity as to all other claims, however
denominated, that seek compensation of any kind or nature that
are a result of, related to, or arise from a conviction and
imprisonment for crimes for which the claimant [~~alleges actual~~
~~innocence.~~] whose judgment of conviction was reversed or



1 vacated, or who was pardoned, on grounds consistent with
2 innocence. This section shall be broadly construed in favor of
3 the State and against any waiver of sovereign immunity."

4 SECTION 6. Section 661B-7, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Notwithstanding any other law, including the common
7 law, to the contrary, this chapter sets forth the exclusive
8 remedy for any person seeking compensation of any kind or nature
9 whatsoever, as a result of, related to, or arising from a
10 conviction and imprisonment for crimes for which the person [~~was~~
11 ~~actually innocent.~~] whose judgment of conviction was reversed or
12 vacated, or who was pardoned, on grounds consistent with
13 innocence. This section shall be strictly construed in favor of
14 any person against whom a claim is asserted, and against the
15 person asserting the claim."

16 SECTION 7. In codifying the new sections added by
17 section 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.

2

INTRODUCED BY:

Don Barnes
JAN 28 2026



Report Title:

AG; DCR; DAGS; Wrongful Conviction and Imprisonment;
Compensation; Annual Report

Description:

Establishes the procedure that a court of the State shall follow upon the reversal or vacation of an individual's judgment or conviction on grounds consistent with innocence, and where the chargers were dismissed. Requires the State to pay advance compensation to any petitioner who was convicted in a court of the State, imprisoned for at least one year, and whose judgment of conviction was reversed or vacated, or was pardoned, on grounds consistent with innocence. Requires the Comptroller to issue a warrant for payment of advance compensation to a petitioner. Requires the Department of Corrections and Rehabilitation to assign a case manager to a petitioner upon the petitioner's release. Requires the State to provide medical coverage to a person for a certain duration upon the reversal or vacation of a person's judgment of conviction on grounds consistent with innocence and where the chargers were dismissed. Requires the Department of the Attorney General to submit an annual report to the Legislature. Clarifies that a person whose judgment of conviction was reversed or vacated, or who was pardoned, on grounds consistent with innocence, and where the chargers were dismissed, may petition for compensation. Requires the State to prove by a preponderance of evidence that the reversal or vacating of the order of conviction for a petitioner, or the pardoning of the petitioner, was inconsistent with innocence.

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