

1979 Assembly Bill 110

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CHAPTER 126, Laws of 1979

AN ACT to amend 20.865 (1) (a) and 775.05 (2) to (4) of the statutes, relating to claims against the state for wrongful imprisonment by persons who are convicted of a crime.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.865 (1) (a) of the statutes, as affected by chapter 32, laws of 1979, is amended to read:

20.865 (1) (a) *Judgments.* A sum sufficient to pay the amounts due under ss. 21.13, 59.31, 775.05 (4), 775.06, 776.43 and chapter 582, laws of 1911.

SECTION 2. 775.05 (2) to (4) of the statutes, as affected by chapter 32, laws of 1979, are amended to read:

775.05 (2) Any person who ~~serves a term of imprisonment under~~ is imprisoned as the result of his or her conviction for a crime in any court of this state, of which crime he the person claims to be innocent, or any person who has been pardoned on the ground of innocence and whose imprisonment is thereby shortened, and who is released from imprisonment for that crime after the effective date of this act (1979), may petition the claims board for compensation for such ~~wrongful~~ imprisonment. Upon receipt of the petition, the claims board shall transmit a copy thereof to the prosecutor who prosecuted the petitioner

and the judge who sentenced the petitioner for the conviction which is the subject of the claim, or their successors in office, for the information of these persons.

(3) After hearing the evidence on the petition, the claims board shall find either that it ~~is clear beyond a reasonable doubt that the evidence is clear and convincing that the petitioner was innocent of the crime for which he or she suffered imprisonment, or that it is not clear beyond a reasonable doubt the evidence is not clear and convincing that he or she was innocent.~~ Upon the hearing the record of the trial in which the conviction was had ~~may be presented to the claims board for the purpose of enabling it to understand the situation, but the finding of the claims board shall be based only on such evidence or circumstances as have been discovered or have arisen since conviction.~~

(4) If the claims board shall find finds that the petitioner was innocent and that he or she did not by his or her act or failure to act contribute to bring about the conviction and imprisonment for which he or she seeks compensation, the claims board shall find the amount which will equitably compensate him for his wrongful imprisonment but the petitioner, not to exceed ~~\$5,000~~ \$25,000 and at a rate of compensation not greater than ~~\$1,500~~ \$5,000 per year for the imprisonment. Compensation awarded by the claims board shall include any amount to which the board finds the petitioner is entitled for attorney fees, costs and disbursements. If the claims board shall find finds that the amount it is able to award ~~will is~~ not be an adequate compensation it shall report an amount to the legislature which it shall ~~deem~~ deems adequate.
