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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **2925**

03/10/2014 Authored by Lesch, Drazkowski, Paymar, Bly, Dehn, R., and others

The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

03/26/2014 By motion, recalled and re-referred to the Committee on Judiciary Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; compensating exonerated persons; amending Minnesota
1.3 Statutes 2012, section 609A.02, subdivision 3; proposing coding for new law in
1.4 Minnesota Statutes, chapter 611.

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

1.6 Section 1. Minnesota Statutes 2012, section 609A.02, subdivision 3, is amended to read:

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

1.13 (b) For the purposes of this section, an action or proceeding is resolved in favor of
1.14 the petitioner, and the petitioner is entitled to have all records of arrest, indictment or
1.15 information, and conviction sealed, if the petitioner was granted an award pursuant to
1.16 section 611.367 or a notice of exoneration pursuant to section 611.364.

1.17 Sec. 2. **[611.362] DEFINITIONS.**

1.18 Subdivision 1. **Application.** The definitions in this section apply to sections 611.363
1.19 to 611.372.

1.20 Subd. 2. **On grounds consistent with innocence.** "On grounds consistent with
1.21 innocence" means a person was:

1.22 (1) exonerated through a pardon or sentence commutation, based on innocence, for a
1.23 crime or crimes for which the person was sentenced to imprisonment; or

2.1 (2) exonerated because the judgment of conviction was vacated or reversed, based on
 2.2 new evidence of actual innocence, and either the complaint or indictment was dismissed,
 2.3 or if a new trial was held, the defendant was found not guilty.

2.4 Subd. 3. **Office.** "Office" means the Office of Administrative Hearings.

2.5 **Sec. 3. [611.363] CLAIM FOR COMPENSATION FOR EXONEREES.**

2.6 Subdivision 1. **Elements.** (a) A claim for compensation arises when a person:

2.7 (1) has been convicted of a crime and served any part of the imposed sentence
 2.8 in prison;

2.9 (2) was exonerated of the charges on grounds consistent with innocence;

2.10 (3) did not commit any of the crimes for which relief is sought, or the acts or
 2.11 omissions in the complaint did not constitute a crime;

2.12 (4) did not commit or suborn perjury, or fabricate evidence to cause or bring about
 2.13 the conviction; and

2.14 (5) was not serving a different term of imprisonment on an alternate crime at the
 2.15 same time.

2.16 (b) A claimant may make a claim only for that portion of time served in prison
 2.17 during which they were serving no other sentence.

2.18 Subd. 2. **Respondent.** The state shall be named as the respondent. A claimant shall
 2.19 serve the claim and all documents on the state through the attorney general.

2.20 Subd. 3. **Agent for claimant.** If the person entitled to file a claim is incapacitated
 2.21 and incapable of filing the claim, or if he or she is a minor, or is a nonresident of the state,
 2.22 the claim may be filed on behalf of the claimant by an authorized agent.

2.23 Subd. 4. **Venue.** Claimants must present all claims for relief under this section to
 2.24 the office.

2.25 Subd. 5. **Statute of limitations.** A claimant may commence a claim seeking relief
 2.26 under this section within two years after the date the person is exonerated or pardoned.
 2.27 Any action by the state challenging or appealing the grant of judicial relief to the claimant
 2.28 shall toll the two-year period. Persons released from custody on grounds consistent with
 2.29 innocence prior to the effective date of this section must commence an action under this
 2.30 section within two years of the effective date.

2.31 **Sec. 4. [611.364] NOTICE.**

2.32 (a) If a district court or the pardon board relieves a person of the burden of a
 2.33 conviction on grounds consistent with innocence, the pardon board or district court shall
 2.34 provide a notice of exoneration and a copy of this act to the person.

3.1 (b) The notice should include identifying information about the crime of conviction,
3.2 a clear statement that the claimant was exonerated or pardoned on grounds consistent with
3.3 innocence, and the signature of the secretary of the pardon board granting the pardon or
3.4 commutation or a judge from the district court that vacated the conviction and granted
3.5 the new trial.

3.6 (c) The person granted relief must acknowledge receipt of the notice and copy of
3.7 this act either in writing or on the record in district court.

3.8 (d) The pardon board or district court that issued the notice shall file the notice with
3.9 the court where the person was convicted for the underlying offense.

3.10 (e) When a person who is granted judicial relief or a pardon based on innocence on
3.11 or after the effective date of this act does not receive the notice required by this section,
3.12 the person shall receive a one-year extension of the two-year time limit provided in
3.13 section 611.363, subdivision 4.

3.14 (f) The state court administrator shall make reasonable attempts to notify all persons
3.15 exonerated from a prison sentence before the enactment of this act of their rights under
3.16 this act.

3.17 **Sec. 5. [611.365] PRIMA FACIE REVIEW.**

3.18 Subdivision 1. **Time for review.** The chief administrative law judge must assign an
3.19 administrative law judge to review a claim submitted under this act. Within 30 business
3.20 days after the claim was filed with the office, when practicable, but never longer than 60
3.21 days, the administrative law judge must make a preliminary decision for its disposition.

3.22 Subd. 2. **Preliminary decision.** (a) If the administrative law judge determines
3.23 that the claim does not set forth a prima facie case for recovery pursuant to this act, the
3.24 administrative law judge must dismiss the claim.

3.25 (b) If the administrative law judge determines that the claim sets forth a prima facie
3.26 case for recovery under this act, the administrative law judge must schedule an evidentiary
3.27 hearing under section 611.366.

3.28 Subd. 3. **Notice to parties.** The office must notify the claimant and the state,
3.29 through the attorney general, of the decision made under subdivision 2. If the claim is
3.30 scheduled for a hearing, the notice must specify the time and place of the hearing and
3.31 inform the parties that they may submit evidence, affidavits, documentation, and argument
3.32 for consideration by the administrative law judge.

3.33 Subd. 4. **Prehearing settlements.** The office may set a prehearing settlement
3.34 conference date. At this conference, the parties must make a good faith attempt to reach a
3.35 settlement in the case. If the parties agree, they may present the assigned administrative

4.1 law judge with a joint motion for summary disposition and no further hearings will be
4.2 required. If a settlement document is signed by the administrative law judge, it will have
4.3 the same effect as an award under this section for all purposes contemplated by this section.

4.4 **Sec. 6. [611.366] EVIDENTIARY HEARING.**

4.5 When required by section 611.365, the administrative law judge must hold an
4.6 evidentiary hearing and consider any evidence and argument submitted until the hearing
4.7 record is closed, including affidavits, documentation, and oral and written arguments. The
4.8 administrative law judge shall be bound by any fact:

- 4.9 (1) established by the stipulation of the parties; or
4.10 (2) found by the district court or the pardon board in making determinations under
4.11 this section.

4.12 All hearings and records relating to the hearing are open to the public, except
4.13 where, in the interest of justice, the administrative law judge orders a hearing closed
4.14 or a record sealed.

4.15 **Sec. 7. [611.367] DISPOSITION.**

4.16 (a) The administrative law judge shall award damages to a claimant if the claimant
4.17 proves by a preponderance of evidence that the claimant:

- 4.18 (1) was convicted of a crime and served any part of the imposed sentence in prison;
4.19 (2) was exonerated of the charges on grounds consistent with innocence which may
4.20 be proven by an appropriately signed notice of exoneration from the secretary of the
4.21 pardon board or district court pursuant to section 611.364;

4.22 (3) did not commit any of the crimes for which relief is sought, or the acts or
4.23 omissions charged in the complaint did not constitute a crime;

4.24 (4) did not commit or suborn perjury, or fabricate evidence to cause or bring about
4.25 the conviction; and

4.26 (5) was not serving a different term of imprisonment on an alternate crime at the
4.27 same time; however, if the claimant served additional time in prison due to the conviction
4.28 that is the basis of this claim, the claimant may still make a claim for that portion of time
4.29 served in prison during which they were serving no other sentence.

4.30 (b) A confession or admission later found to be false or a guilty plea to a crime the
4.31 claimant did not commit does not constitute bringing about the claimant's conviction
4.32 for purposes of this act.

4.33 (c) The administrative law judge shall dismiss the case if the claimant fails to meet
4.34 the burden established in paragraph (a).

5.1 Sec. 8. [611.368] DAMAGES.

5.2 Subdivision 1. **Damages.** An administrative law judge shall award a person the
5.3 relief provided for in this section if the judge finds that the claimant meets the criteria
5.4 set out in section 611.367.

5.5 Subd. 2. **Monetary damages.** The judge shall award a claimant not less than
5.6 \$50,000 for each year of imprisonment, and not less than \$25,000 for each year served on
5.7 parole, probation, or as a registered sex offender, to be prorated for partial years served.
5.8 In addition, the claimant shall be reimbursed for all restitution, assessments, fees, court
5.9 costs, and all other sums paid by the claimant as required by the judgment and sentence.
5.10 In calculating additional monetary damages, the administrative law judge shall also
5.11 consider the following:

5.12 (1) economic damages, including but not limited to attorney's fees, lost wages,
5.13 reimbursement for costs associated with the claimant's criminal defense, and efforts to
5.14 prove innocence;

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

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

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

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

5.28 (6) reimbursement for paid or unpaid reintegrative expenses, if not provided for
5.29 pursuant to section 611.371, for any reasonable costs incurred by claimant for immediate
5.30 services secured upon exoneration and release, including housing, transportation and
5.31 subsistence, reintegrative services, and psychological, physical, and dental health care
5.32 costs incurred by the claimant for the time period between release from wrongful
5.33 imprisonment and the date of an award of damages under this section.

5.34 Subd. 3. **Maximum total amount.** The maximum total amount of an award
5.35 permitted under subdivision 2 may not exceed the maximum award amount allowed under

6.1 section 3.736, subdivision 4. For purposes of determining when the claim arose, the claim
6.2 for compensation under subdivision 2 arises when the exoneration occurs.

6.3 Subd. 4. **Inflation.** Inflation from the date of enactment as adjusted by the state
6.4 auditor shall be considered to increase the minimum amounts and maximum amounts
6.5 permitted by this subdivision.

6.6 Subd. 5. **Attorney fees.** The administrative law judge shall order reasonable
6.7 attorneys' fees for bringing a claim under this act. These fees, exclusive of expenses, shall
6.8 not exceed a reasonable amount, as adjusted by the state auditor to account for inflation
6.9 from the date of enactment. These fees shall not be deducted from the compensation due
6.10 claimant. If compensated under this section, claimant's counsel is not entitled to receive
6.11 additional fees from the claimant. This claim for attorney fees shall belong to and be
6.12 enforced solely by the claimant's attorney.

6.13 Subd. 6. **Limitations.** The damage award shall not be subject to treatment as gross
6.14 income to a claimant under the applicable provisions of the state tax code. Any amount
6.15 of the judgment that shall be awarded as attorney fees shall be taxable, if at all, only
6.16 to the claimant's attorney.

6.17 Subd. 7. **Notice and acceptance of award.** A claimant who is awarded damages
6.18 under this section shall be provided with a written notice of the award. The notice should
6.19 include identifying information about the crime of conviction, a clear statement that the
6.20 claimant received damages under this section on grounds consistent with innocence, and
6.21 the signature of the administrative law judge granting the award. A claimant's acceptance
6.22 of an award, compromise, or settlement shall be in writing and final and conclusive on
6.23 the claimant.

6.24 Subd. 8. **Subsequent damage awards.** Any future damages awarded to the
6.25 claimant resulting from an action by the claimant against any unit of government based on
6.26 the same subject shall be offset by the damage award received under this act.

6.27 Subd. 9. **No offsets.** The damage award shall not be offset by:

6.28 (1) any expenses incurred by the state or any political subdivision of the state
6.29 including, but not limited to, expenses incurred to secure the claimant's custody or to feed,
6.30 clothe, or provide medical services for claimant; or

6.31 (2) the value of any services or reduction in fees for services, or the value thereof to
6.32 be provided to the claimant that may be awarded to the claimant pursuant to this act.

6.33 Sec. 9. **[611.369] RECONSIDERATION BY CHIEF ADMINISTRATIVE LAW**
6.34 **JUDGE.**

7.1 (a) If the administrative law judge dismisses the claim without a hearing, the judge
7.2 shall provide the claimant with written notice of the right to seek reconsideration of the
7.3 decision by the chief administrative law judge.

7.4 (b) A petition for reconsideration must be filed within 30 days after the dismissal.
7.5 The chief administrative law judge must make a decision on the petition within 30 days
7.6 after receiving the petition. If the chief administrative law judge determines that the
7.7 assigned administrative law judge made an error, the chief administrative law judge shall
7.8 grant the petition for reconsideration and schedule the claim for an evidentiary hearing
7.9 within 30 days.

7.10 **Sec. 10. [611.370] JUDICIAL REVIEW.**

7.11 A party aggrieved by a final decision on a claim filed under this section is entitled
7.12 to judicial review of the decision as provided in sections 14.63 to 14.69; however,
7.13 proceedings on a complaint filed under this section are not a contested case within the
7.14 meaning of chapter 14 and are not otherwise governed by chapter 14.

7.15 **Sec. 11. [611.371] IMMEDIATE SERVICES.**

7.16 Subdivision 1. **Eligibility.** Upon judicial order by the district court, or a directive
7.17 from the pardon board, releasing a defendant from prison on grounds consistent with
7.18 innocence, the commissioner of corrections shall provide the services described in
7.19 subdivision 2 for up to two years.

7.20 Subd. 2. **Services.** The commissioner must provide eligible claimants with basic
7.21 services upon release, including but not limited to the following: housing; vocational
7.22 training; transportation; subsistence monetary assistance; reintegrative services; and
7.23 psychological, physical, and dental health care. The need for these services shall be
7.24 determined through a review by the appropriate staff at the Department of Corrections in
7.25 consultation with the Department of Human Services for the county where the claimant
7.26 will reside, and provided by the appropriate state entities.

7.27 Subd. 3. **Reimbursement for services.** A claimant bringing an action for damages
7.28 pursuant to section 611.368 may not receive reimbursement for any services provided at
7.29 no cost to the claimant under subdivision 2.

7.30 **Sec. 12. [611.372] SHORT TITLE.**

7.31 Sections 611.362 to 611.371 shall be cited as the Imprisonment and Exoneration
7.32 Remedies Act.