S-0465.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5520**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Orwall, Frame, Hasegawa, Lovelett, and Saldaña

AN ACT Relating to reforming the wrongly convicted persons act; amending RCW 4.100.030, 4.100.040, 4.100.050, 4.100.060, 4.100.070, 4.100.080, 4.100.090, and 28B.15.395; adding a new section to chapter 4.100 RCW; and repealing RCW 4.100.020.

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

NEW SECTION. **Sec.**  A new section is added to chapter 4.100 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actually innocent" describes a person who did not engage in the conduct that is the basis for a felony charged in the charging document.

(2) "Significant new exculpatory information" means any information, without regard to its admissibility in court, that:

(a) Supports or is consistent with a person's claim they were wrongly convicted; and

(b) Was not considered by the finder of fact at trial or in a plea hearing before conviction.

(3) "Wrongly convicted" means a person who was charged, convicted, and imprisoned for one or more felonies of which he or she is actually innocent.

**Sec.**  RCW 4.100.030 and 2013 c 175 s 3 are each amended to read as follows:

(1) Any person convicted in superior court and subsequently imprisoned for one or more felonies of which he or she is actually innocent may file a claim for compensation from the state.

(2) If a person entitled to file a claim under subsection (1) of this section is incapacitated and incapable of filing the claim, or if he or she is a minor, or is a nonresident of the state, the claim may be filed on behalf of the claimant by an authorized agent.

(3) A claim filed under this chapter survives to the personal representative of the claimant as provided in RCW 4.20.046.

(4) All claims under this chapter must be filed in superior court. The venue for such actions is governed by RCW 4.12.020.

((~~(2)~~)) (5) Service of the summons and complaint is governed by RCW 4.28.080.

**Sec.**  RCW 4.100.040 and 2013 c 175 s 4 are each amended to read as follows:

(1) In order to file an actionable claim for compensation under this chapter, the claim must not be time barred under RCW 4.100.090 and the claimant must ((~~establish by documentary evidence~~)) state facts and provide documentation in sufficient detail for the finder of fact to determine that:

(a) The claimant has been convicted of one or more felonies in superior court and subsequently sentenced to a term of imprisonment, and has served all or part of the sentence;

(b)((~~(i)~~)) The claimant did not engage in the conduct that is the basis for a felony charged in the charging document;

(c) The claimant did not commit or suborn perjury or fabricate evidence to cause or bring about the conviction. A guilty plea to a crime the claimant did not commit, or a confession that is false or illegally obtained, does not constitute perjury or fabricated evidence under this subsection;

(d) The claimant is not currently incarcerated for any offense; and

((~~(ii)~~)) (e) During the period of confinement for which the claimant is seeking compensation, the claimant was not serving a term of imprisonment or a concurrent sentence for any crime other than the felony or felonies that are the basis for the claim((~~;~~

~~(c)(i)~~)).

(3) In addition to the requirements of subsections (1) and (2) of this section, the claimant must present documentary evidence establishing that:

(a) The claimant has ((~~been pardoned~~)) received a pardon, amnesty, commutation, or reprieve on grounds consistent with innocence for the felony or felonies that are the basis for the claim; or

((~~(ii)~~)) (b) The claimant's judgment of conviction was reversed or vacated ((~~and the charging document dismissed on the basis of significant new exculpatory information or, if a new trial was ordered pursuant to the presentation of significant new exculpatory information, either the claimant was found not guilty at the new trial or the claimant was not retried and the charging document dismissed; and~~

~~(d) The claim is not time barred by RCW 4.100.090.~~

~~(2) In addition to the requirements in subsection (1) of this section, the claimant must state facts in sufficient detail for the finder of fact to determine that:~~

~~(a) The claimant did not engage in any illegal conduct alleged in the charging documents; and~~

~~(b) The claimant did not commit or suborn perjury, or fabricate evidence to cause or bring about the conviction. A guilty plea to a crime the claimant did not commit, or a confession that is later determined by a court to be false, does not automatically constitute perjury or fabricated evidence under this subsection.~~

~~(3)~~)) following the presentation or development of significant new exculpatory information, and:

(i) The claimant was not retried and the charges were dismissed; or

(ii) The claimant was retried and not convicted.

(4) Convictions vacated, overturned, or subject to resentencing pursuant to *In re: Personal Detention of Andress*, 147 Wn.2d 602 (2002) or *State of Washington v. Blake*, 197 Wn.2d 170 (2021) may not serve as the basis for a claim under this chapter unless the claimant otherwise satisfies the qualifying criteria set forth ((~~in~~)) under RCW ((~~4.100.020~~)) 4.100.030 and this section.

((~~(4)~~)) (5) The claimant must verify the claim unless he or she is incapacitated, in which case the personal representative or agent filing on behalf of the claimant must verify the claim.

((~~(5) If the~~)) (6)(a) The attorney general ((~~concedes~~)) may concede that the claimant was wrongly convicted at any time, in which case the court must award compensation as provided in RCW 4.100.060.

((~~(6)(a)~~)) (b) If the attorney general does not concede that the claimant was wrongly convicted and the court finds after reading the claim that the claimant does not meet the filing criteria set forth in this section, it may dismiss the claim, either on its own motion or on the motion of the attorney general.

((~~(b)~~)) (7) Claims under this chapter must be evaluated at all stages of the proceeding:

(a) Independent of any criminal case, including the criminal case serving as the basis for the claim;

(b) Without bias associated with the original conviction;

(c) Without bias related to the claimant's race, color, religion, sex, gender, sexual orientation, marital status, age, disability, or other criminal history; and

(d) In a manner that promotes the remedial purpose of this chapter.

(8) If the court dismisses the claim, the court must set forth the reasons for its decision in written findings of fact and conclusions of law.

**Sec.**  RCW 4.100.050 and 2013 c 175 s 5 are each amended to read as follows:

Any party is entitled to the rights of appeal afforded parties in a civil action following a decision on such motions. ((~~In the case of~~)) If the claimant appeals the dismissal of a claim, review of the superior court action is de novo. If the state appeals a judgment in favor of a claimant, interest shall accrue from the date the judgment was entered pursuant to RCW 4.56.115.

**Sec.**  RCW 4.100.060 and 2013 c 175 s 6 are each amended to read as follows:

(1) In order to obtain a judgment in his or her favor, the claimant must show by clear and convincing evidence that:

(a) The claimant was convicted of one or more felonies in superior court and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;

(b)(i) The claimant is not currently incarcerated for any offense; and

(ii) During the period of confinement for which the claimant is seeking compensation, the claimant was not serving a term of imprisonment or a concurrent sentence for any conviction other than those that are the basis for the claim;

(c)(i) The claimant ((~~has been pardoned~~)) received a pardon, proclamation of amnesty, commutation, or reprieve on grounds consistent with innocence for the felony or felonies that are the basis for the claim; or

(ii) The claimant's judgment of conviction was reversed or vacated ((~~and the charging document dismissed on the basis~~)) following the development of significant new exculpatory information ((~~or, if a new trial was ordered pursuant to the presentation of significant new exculpatory information, either the claimant was found not guilty at the new trial or the claimant was not retried and the charging document dismissed~~)) and the claimant's judgment of conviction was reversed or vacated following the presentation or development of significant new exculpatory information or the claimant was not retried and not convicted;

(d) The claimant did not engage in ((~~any illegal~~)) the conduct ((~~alleged~~)) charged as a felony in the charging documents; and

(e) The claimant did not commit or suborn perjury, or fabricate evidence to cause or bring about his or her conviction. A guilty plea to a crime the claimant did not commit, or a confession that is ((~~later determined by a court to be~~)) false or illegally obtained, does not ((~~automatically~~)) constitute perjury or fabricated evidence under this subsection.

(2) Any pardon or proclamation issued to the claimant must be certified by the officer having lawful custody of the pardon or proclamation, and be affixed with the seal of the office of the governor, or with the official certificate of such officer before it may be offered as evidence.

(3) In exercising its discretion regarding the weight and admissibility of evidence, the ((~~court~~)) finder of fact must give due consideration to difficulties of proof caused by the passage of time or by release of evidence ((~~pursuant to a plea~~)), the death or unavailability of witnesses, the destruction of evidence, or other factors not caused by the ((~~parties~~)) claimant.

(4) The claimant may not be compensated for any period of time in which he or she was serving a term of imprisonment or a concurrent sentence for any conviction other than the felony or felonies that are the basis for the claim.

(5) If the jury or, in the case where the right to a jury is waived, the court finds by clear and convincing evidence that the claimant was wrongly convicted, the court must order the state to pay the actually innocent claimant the following compensation award, as adjusted for partial years served and to account for inflation from ((~~July 28, 2013~~)) the effective date of this section:

(a) ((~~Fifty thousand dollars~~)) $70,000 for each year of actual confinement including time spent awaiting trial and an additional ((~~fifty thousand dollars~~)) $70,000 for each year served under a sentence of death ((~~pursuant to chapter 10.95 RCW~~));

(b) ((~~Twenty-five thousand dollars~~)) $35,000 for each year served on parole, community custody, or as a registered sex offender pursuant only to the felony or felonies which are grounds for the claim;

(c) Compensation for child support payments owed by the claimant that became due and interest on child support arrearages that accrued while the claimant was in custody on the felony or felonies that are grounds for the compensation claim. The funds must be paid on the claimant's behalf in a lump sum payment to the department of social and health services for disbursement under Title 26 RCW; and

(d) Reimbursement for all restitution, assessments, fees, court costs, and all other sums paid by the claimant as required by pretrial orders and the judgment and sentence((~~; and~~

~~(e) Attorneys'~~)).

(6) The court shall award reasonable attorneys' fees and expenses to a prevailing claimant for successfully bringing the wrongful conviction claim ((~~calculated at ten percent of the monetary damages awarded under subsection (5)(a) and (b) of this section, plus expenses. However, attorneys' fees and expenses may not exceed seventy-five thousand dollars. These~~)) pursuant to chapter 4.84 RCW. Attorneys' fees and expenses may not be deducted from the compensation award due to the claimant and counsel is not entitled to receive additional fees from the client related to the claim. The court may not award any attorneys' fees to the claimant if the claimant fails to prove he or she was wrongly convicted.

((~~(6) The~~)) (7) A compensation award under this chapter may not include any punitive damages.

((~~(7)~~)) (8) The court may not offset the compensation award by any expenses incurred by the state, the county, or any political subdivision of the state including, but not limited to, expenses incurred to secure the claimant's custody, or to feed, clothe, or provide medical services for the claimant. The court may not offset against the compensation award the value of any services or reduction in fees for services to be provided to the claimant as part of the award under this section.

((~~(8)~~)) (9) The compensation award is not income for tax purposes, except attorneys' fees awarded under ((~~subsection (5)(e) of~~)) this section.

((~~(9)~~)) (10)(a) Upon finding that the claimant was wrongly convicted, the court must seal the claimant's record of conviction.

(b) Upon request of the claimant, the court may order the claimant's record of conviction vacated if the record has not already been vacated, expunged, or destroyed under court rules. The requirements for vacating records under RCW 9.94A.640 do not apply.

((~~(10)~~)) (11) Upon request of the claimant, the court must refer the claimant to the department of corrections or the department of social and health services for access to reentry services, if available, including but not limited to ((~~counseling on the ability to enter into a structured settlement agreement and where to obtain free or low-cost legal and financial advice if the claimant is not already represented,~~)) the community-based transition programs and long-term support programs for education, mentoring, life skills training, assessment, job skills development, mental health and substance abuse treatment.

((~~(11)~~)) (12) The claimant or the attorney general may initiate and agree to a claim with a structured settlement for the compensation awarded under ((~~subsection (5) of~~)) this section. During negotiation of the structured settlement agreement, the claimant must be given adequate time to consult with the legal and financial advisor of his or her choice. Any structured settlement agreement binds the parties with regard to all compensation awarded. A structured settlement agreement entered into under this section must be in writing and signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the agreement.

((~~(12)~~)) (13) Before approving any structured settlement agreement, the court must ensure that the claimant has an adequate understanding of the agreement. The court may approve the agreement only if the judge finds that the agreement is in the best interest of the claimant and actuarially equivalent to ((~~the~~)) a lump sum compensation award under ((~~subsection (5) of~~)) this section before taxation. When determining whether the agreement is in the best interest of the claimant, the court must consider the following factors:

(a) The age and life expectancy of the claimant;

(b) The marital or domestic partnership status of the claimant; and

(c) The number and age of the claimant's dependents.

**Sec.**  RCW 4.100.070 and 2013 c 175 s 7 are each amended to read as follows:

(1) On or after July 28, 2013, when a court grants judicial relief, such as reversal and vacation of a person's conviction, consistent with the criteria established in RCW 4.100.040, the court must provide to the claimant a copy of this chapter and RCW ((~~4.100.020 through 4.100.090,~~)) 28B.15.395((~~,~~)) and 72.09.750 at the time the relief is granted.

(2) The clemency and pardons board or the indeterminate sentence review board, whichever is applicable, upon issuance of a pardon, amnesty, commutation, or reprieve by the governor on grounds consistent with innocence on or after July 28, 2013, must provide a copy of this chapter and RCW ((~~4.100.020 through 4.100.090,~~)) 28B.15.395((~~,~~)) and 72.09.750 to the individual pardoned.

(3) If an individual entitled to receive the information required under this section shows that he or she was not provided with the information, he or she has an additional ((~~twelve months~~)) six years, beyond the statute of limitations under RCW 4.100.090, to bring a claim under this chapter.

**Sec.**  RCW 4.100.080 and 2013 c 175 s 8 are each amended to read as follows:

(1) It is the intent of the legislature that the ((~~remedies and~~)) monetary compensation ((~~provided~~)) calculated under this chapter shall ((~~be exclusive to all other remedies at law and in equity against the state or any political subdivision of the state. As a requirement to making a request for relief under this chapter, the claimant waives any and all other remedies, causes of action, and other forms of relief or compensation against the state, any political subdivision of the state, and their officers, employees, agents, and volunteers related to the claimant's wrongful conviction and imprisonment. This waiver shall also include all state, common law, and federal claims for relief, including claims pursuant to 42 U.S.C. Sec. 1983. A wrongfully convicted person who elects not to pursue a claim for compensation pursuant to this chapter shall not be precluded from seeking relief through any other existing remedy. The claimant must execute a legal release prior to the payment of any compensation under this chapter~~)) establish the monetary minimum compensation owed to a claimant pursuant to a wrongful conviction. If ((~~the release is held invalid for any reason and~~)) the claimant is awarded compensation under this chapter and receives a tort award from the state or any political subdivision of the state related to his or her wrongful conviction ((~~and incarceration~~)), the claimant must reimburse the state for the lesser of:

(a) The amount of the compensation award, excluding the portion awarded pursuant to RCW 4.100.060(5) (c) through ((~~(e)~~)) (d) and (6); or

(b) The amount received by the claimant under the tort award.

(2) A release dismissal agreement, plea agreement, or any similar agreement whereby a prosecutor's office or an agent acting on its behalf agrees to take or refrain from certain action if the accused individual agrees to forgo legal action against the county, the state of Washington, or any political subdivision, is admissible and should be evaluated in light of all the evidence. However, any such agreement is not dispositive of the question of whether the claimant was wrongly convicted or entitled to compensation under this chapter.

(3) A claimant who receives a judgment for a monetary award under RCW 4.100.060 is entitled to receive an advance on the compensation award from the state general fund within 30 days of the judgment, which shall be repaid upon receipt of the full compensation award or deducted from the full compensation award. The advance shall be in an amount adjusted for inflation that is actuarially equal to one year of compensation under RCW 4.100.060(5)(a), or the full amount of compensation awarded by the court, whichever is less.

**Sec.**  RCW 4.100.090 and 2013 c 175 s 9 are each amended to read as follows:

Except as provided in RCW 4.100.070, an action for compensation under this chapter must be commenced within ((~~three~~)) six years after the grant of a pardon or other executive relief, the grant of judicial relief and satisfaction of other conditions described in ((~~RCW 4.100.020~~)) this chapter, or release from custody, whichever is later. ((~~However, any~~)) Any action by the state challenging or appealing the grant of judicial relief or release from custody ((~~tolls~~)) shall toll the ((~~three~~)) six-year period. Any person((~~s~~)) meeting the criteria set forth in ((~~RCW 4.100.020~~)) this chapter who was wrongly convicted before July 28, 2013, may commence an action under this chapter within three years after ((~~July 28, 2013~~)) the effective date of this section.

**Sec.**  RCW 28B.15.395 and 2015 c 55 s 215 are each amended to read as follows:

(1) Subject to the conditions in subsection (2) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, must waive all tuition and fees for the following persons:

(a) A wrongly convicted person; and

(b) Any child or stepchild of a wrongly convicted person who was born or became the stepchild of, or was adopted by, the wrongly convicted person before compensation is awarded under RCW 4.100.060.

(2) The following conditions apply to waivers under subsection (1) of this section:

(a) A wrongly convicted person must be a Washington domiciliary to be eligible for the tuition waiver.

(b) A child must be a Washington domiciliary ages seventeen through twenty-six years to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (1) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (1) of this section may attend full time or part time. Total credits earned using the waiver may not exceed two hundred quarter credits, or the equivalent of semester credits.

(3) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms of this section.

(4) For the purposes of this section:

(a) "Child" means a biological child, stepchild, or adopted child who was born of, became the stepchild of, or was adopted by a wrongly convicted person before compensation is awarded under RCW 4.100.060.

(b) "Fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(c) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. In ascertaining whether a wrongly convicted person or child is domiciled in the state of Washington, public institutions of higher education must, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(d) "Wrongly convicted person" means a Washington domiciliary who ((~~was awarded damages under RCW 4.100.060~~)) has been found actually innocent as provided in chapter 4.100 RCW.

NEW SECTION. **Sec.**  RCW 4.100.020 (Claim for compensation—Definitions) and 2013 c 175 s 2 are each repealed.

**--- END ---**