
SENATE BILL 5520

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

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

Read first time 01/27/25. Referred to Committee on Law & Justice.

1 AN ACT Relating to reforming the wrongly convicted persons act;
2 amending RCW 4.100.030, 4.100.040, 4.100.050, 4.100.060, 4.100.070,
3 4.100.080, 4.100.090, and 28B.15.395; adding a new section to chapter
4 4.100 RCW; and repealing RCW 4.100.020.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.100
7 RCW to read as follows:

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

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

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

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

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

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

1 **Sec. 2.** RCW 4.100.030 and 2013 c 175 s 3 are each amended to
2 read as follows:

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

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

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

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

14 ~~((2))~~ (5) Service of the summons and complaint is governed by
15 RCW 4.28.080.

16 **Sec. 3.** RCW 4.100.040 and 2013 c 175 s 4 are each amended to
17 read as follows:

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

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

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

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

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

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

39 ~~(e)(i))~~).

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

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

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

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

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

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

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

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

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

30 (ii) The claimant was retried and not convicted.

31 (4) Convictions vacated, overturned, or subject to resentencing
32 pursuant to *In re: Personal Detention of Andress*, 147 Wn.2d 602
33 (2002) or *State of Washington v. Blake*, 197 Wn.2d 170 (2021) may not
34 serve as the basis for a claim under this chapter unless the claimant
35 otherwise satisfies the qualifying criteria set forth ((+n)) under
36 RCW ((4.100.020)) 4.100.030 and this section.

37 ~~((+4)) (5) The claimant must verify the claim unless he or she~~
38 ~~is incapacitated, in which case the personal representative or agent~~
39 ~~filing on behalf of the claimant must verify the claim.~~

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

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

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

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

13 (b) Without bias associated with the original conviction;

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

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

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

22 **Sec. 4.** RCW 4.100.050 and 2013 c 175 s 5 are each amended to
23 read as follows:

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

30 **Sec. 5.** RCW 4.100.060 and 2013 c 175 s 6 are each amended to
31 read as follows:

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

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

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

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

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

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

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

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

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

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

38 (4) The claimant may not be compensated for any period of time in
39 which he or she was serving a term of imprisonment or a concurrent

1 sentence for any conviction other than the felony or felonies that
2 are the basis for the claim.

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

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

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

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

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

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

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

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

1 ~~((7))~~ (8) The court may not offset the compensation award by
2 any expenses incurred by the state, the county, or any political
3 subdivision of the state including, but not limited to, expenses
4 incurred to secure the claimant's custody, or to feed, clothe, or
5 provide medical services for the claimant. The court may not offset
6 against the compensation award the value of any services or reduction
7 in fees for services to be provided to the claimant as part of the
8 award under this section.

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

12 ~~((9))~~ (10)(a) Upon finding that the claimant was wrongly
13 convicted, the court must seal the claimant's record of conviction.

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

18 ~~((10))~~ (11) Upon request of the claimant, the court must refer
19 the claimant to the department of corrections or the department of
20 social and health services for access to reentry services, if
21 available, including but not limited to ~~((counseling on the ability~~
22 ~~to enter into a structured settlement agreement and where to obtain~~
23 ~~free or low-cost legal and financial advice if the claimant is not~~
24 ~~already represented,))~~ the community-based transition programs and
25 long-term support programs for education, mentoring, life skills
26 training, assessment, job skills development, mental health and
27 substance abuse treatment.

28 ~~((11))~~ (12) The claimant or the attorney general may initiate
29 and agree to a claim with a structured settlement for the
30 compensation awarded under ~~((subsection (5) of))~~ this section. During
31 negotiation of the structured settlement agreement, the claimant must
32 be given adequate time to consult with the legal and financial
33 advisor of his or her choice. Any structured settlement agreement
34 binds the parties with regard to all compensation awarded. A
35 structured settlement agreement entered into under this section must
36 be in writing and signed by the parties or their representatives and
37 must clearly state that the parties understand and agree to the terms
38 of the agreement.

39 ~~((12))~~ (13) Before approving any structured settlement
40 agreement, the court must ensure that the claimant has an adequate

1 understanding of the agreement. The court may approve the agreement
2 only if the judge finds that the agreement is in the best interest of
3 the claimant and actuarially equivalent to ~~((the))~~ a lump sum
4 compensation award under ~~((subsection (5) of))~~ this section before
5 taxation. When determining whether the agreement is in the best
6 interest of the claimant, the court must consider the following
7 factors:

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

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

10 and

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

12 **Sec. 6.** RCW 4.100.070 and 2013 c 175 s 7 are each amended to
13 read as follows:

14 (1) On or after July 28, 2013, when a court grants judicial
15 relief, such as reversal and vacation of a person's conviction,
16 consistent with the criteria established in RCW 4.100.040, the court
17 must provide to the claimant a copy of this chapter and RCW
18 ~~((4.100.020 through 4.100.090,))~~ 28B.15.395~~((7))~~ and 72.09.750 at the
19 time the relief is granted.

20 (2) The clemency and pardons board or the indeterminate sentence
21 review board, whichever is applicable, upon issuance of a pardon,
22 amnesty, commutation, or reprieve by the governor on grounds
23 consistent with innocence on or after July 28, 2013, must provide a
24 copy of this chapter and RCW ~~((4.100.020 through 4.100.090,))~~
25 28B.15.395~~((7))~~ and 72.09.750 to the individual pardoned.

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

31 **Sec. 7.** RCW 4.100.080 and 2013 c 175 s 8 are each amended to
32 read as follows:

33 (1) It is the intent of the legislature that the ~~((remedies and))~~
34 monetary compensation ~~((provided))~~ calculated under this chapter
35 shall ~~((be exclusive to all other remedies at law and in equity~~
36 ~~against the state or any political subdivision of the state. As a~~
37 ~~requirement to making a request for relief under this chapter, the~~
38 ~~claimant waives any and all other remedies, causes of action, and~~

1 ~~other forms of relief or compensation against the state, any~~
2 ~~political subdivision of the state, and their officers, employees,~~
3 ~~agents, and volunteers related to the claimant's wrongful conviction~~
4 ~~and imprisonment. This waiver shall also include all state, common~~
5 ~~law, and federal claims for relief, including claims pursuant to 42~~
6 ~~U.S.C. Sec. 1983. A wrongfully convicted person who elects not to~~
7 ~~pursue a claim for compensation pursuant to this chapter shall not be~~
8 ~~precluded from seeking relief through any other existing remedy. The~~
9 ~~claimant must execute a legal release prior to the payment of any~~
10 ~~compensation under this chapter)) establish the monetary minimum~~
11 ~~compensation owed to a claimant pursuant to a wrongful conviction. If~~
12 ~~((the release is held invalid for any reason and)) the claimant is~~
13 ~~awarded compensation under this chapter and receives a tort award~~
14 ~~from the state or any political subdivision of the state related to~~
15 ~~his or her wrongful conviction ((and incarceration)), the claimant~~
16 ~~must reimburse the state for the lesser of:~~

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

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

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

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

37 **Sec. 8.** RCW 4.100.090 and 2013 c 175 s 9 are each amended to
38 read as follows:

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

13 **Sec. 9.** RCW 28B.15.395 and 2015 c 55 s 215 are each amended to
14 read as follows:

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

20 (a) A wrongly convicted person; and

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

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

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

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

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

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

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

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

4 (4) For the purposes of this section:

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

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

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

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

20 NEW SECTION. **Sec. 10.** RCW 4.100.020 (Claim for compensation—
21 Definitions) and 2013 c 175 s 2 are each repealed.

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