

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 8.01-195.11 and 8.01-195.13 of the Code of Virginia, relating to compensation for wrongful incarceration; compensation for certain intentional acts.

[H 1914]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-195.11 and 8.01-195.13 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-195.11. Compensation for wrongful incarceration.

A. 1. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony may be awarded compensation for each year of incarceration, or portion thereof. The amount of compensation per year shall be \$55,000, adjusted on July 1 of each fiscal year by the year-over-year percentage increase in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or any predecessor or successor index. Calculations made pursuant to this section shall be made by the State Treasurer and rounded up to the nearest dollar.

2. For compensation awarded pursuant to this section on or after January 1, 2024, a wrongfully incarcerated person who is awarded compensation pursuant to subdivision 1 shall also receive not less than \$30,000, adjusted on July 1 of each fiscal year by the year-over-year percentage increase in the Chained Consumer Price Index for all Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or any predecessor or successor index, for each year or fraction thereof (i) of imprisonment after being sentenced to death or (ii) that such person was required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 *after release from incarceration*.

B. Any compensation computed pursuant to subsection A and approved by the General Assembly shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid a lump sum.

C. In addition to the compensation awarded pursuant to subsection A, the General Assembly shall pay to the person wrongfully incarcerated the amount of any unreimbursed fine, fee, court cost, or restitution imposed and paid and reasonable attorney fees and costs incurred to receive an award pursuant to this section. The wrongfully incarcerated person may also be awarded other nonmonetary relief sought, including counseling, housing assistance, employment assistance, health care and dental care, and personal financial literacy assistance, as appropriate.

D. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B, within 30 days of receipt of the written request for the disbursement of the transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the comprehensive community college at which the career or technical training was completed.

E. If an individual eligible for compensation and benefits under this section is deceased, the individual's estate has standing to be compensated under this section.

§ 8.01-195.13. Compensation for certain intentional acts.

A. In any matter resulting in compensation for wrongful incarceration pursuant to this article, if a court of competent jurisdiction over the matter determines, or the court record clearly demonstrates, that the Commonwealth or any agency, instrumentality, officer or employee, or political subdivision thereof (i) intentionally and wrongfully fabricated evidence that was used to obtain the wrongful conviction in such manner and (ii) intentionally, willfully, and continuously suppressed or withheld evidence establishing the innocence of the person wrongfully incarcerated, including ~~but not limited to~~ suppression or withholding of evidence to the Governor for the purpose of clemency, the Commonwealth may compensate the person wrongfully incarcerated for such intentional acts. Such amount shall be in addition to any compensation awarded pursuant to § 8.01-195.11 and may be up to or equal to the amount of such compensation. The additional compensation shall be added to any amount awarded pursuant to § 8.01-195.11, and the total

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57 compensation shall be paid pursuant to subsection B of § 8.01-195.11. Nothing provided in this section shall
58 be interpreted to supplant, revoke, or supersede any other provision of this article applicable to the award of
59 compensation for wrongful incarceration, and the additional compensation shall be subject to any conditions
60 set forth in this article.

61 B. 1. Any compensation awarded pursuant to this article that includes the additional compensation for
62 intentional acts as set forth in subsection A shall not become effective and payable by the Commonwealth
63 unless and until ~~(i) the person wrongfully incarcerated executes the release and waiver pursuant to subsection~~
64 ~~B of § 8.01-195.12 and (ii) the instrumentality, or political subdivision thereof, employing any individual~~
65 ~~committing the intentional acts set forth in clauses (i) and (ii) of subsection A enters into an agreement with~~
66 ~~the person wrongfully incarcerated requiring such instrumentality or political subdivision to compensate the~~
67 ~~person with a sum at least equal to the total compensation provided pursuant to § 8.01-195.11 and this~~
68 ~~section.~~

69 2. a. *In the event that (i) any compensation awarded pursuant to this article includes the additional*
70 *compensation for intentional acts as set forth in subsection A; (ii) such award has become effective and*
71 *payable by the Commonwealth pursuant to subdivision 1; and (iii) the instrumentality, or political*
72 *subdivision thereof, employed any individual committing any of the intentional acts set forth in clauses (i)*
73 *and (ii) of subsection A, then the person wrongfully incarcerated shall be compensated by such*
74 *instrumentality, or political subdivision thereof, with a sum at least equal to the total compensation provided*
75 *pursuant to § 8.01-195.11 and this section.*

76 b. *If it is established to the satisfaction of the Governor that the instrumentality, or political subdivision*
77 *thereof, fails to compensate the person wrongfully incarcerated pursuant to subdivision a, the Governor shall*
78 *immediately make an order directing the Comptroller to withhold all further payment to the instrumentality,*
79 *or political subdivision thereof, of all funds, or of any part of them, appropriated and payable by the*
80 *Commonwealth to the instrumentality, or political subdivision thereof, for any and all purposes, until such*
81 *compensation is paid to the person.*