

HOUSE BILL 1225

P1, E2

8lr3233
CF SB 987

By: ~~Delegate Dumais~~ Delegates Dumais, Ali, Conaway, Gibson, Hayes, J. Lewis, Moon, Sanchez, and Vallario

Introduced and read first time: February 8, 2018

Assigned to: Judiciary and Ways and Means

Reassigned: Judiciary and Health and Government Operations, February 16, 2018

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2018

CHAPTER _____

1 AN ACT concerning

2 ~~State Finance and Procurement~~ Grant Compensation to Individual
3 Erroneously Convicted, Sentenced, and Confined or Whose Conviction or
4 Adjudication is Reversed

5 FOR the purpose of altering a provision of law to require, rather than authorize, the Board
6 of Public Works to pay ~~a certain grant~~ certain compensation to a certain individual
7 who has been erroneously convicted, sentenced, and confined; requiring ~~a certain~~
8 ~~grant~~ certain compensation made by the Board to include certain amounts; requiring
9 certain compensation to include the amounts of certain fines, governmental fees,
10 costs, and restitution; repealing a provision of law limiting eligibility for ~~a certain~~
11 ~~grant~~ certain compensation to certain situations in which a State's Attorney has
12 certified that a conviction was in error under a certain provision of law; repealing a
13 provision of law prohibiting the Board from paying a certain part of a certain grant
14 to any individual other than an erroneously convicted individual; ~~repealing a~~
15 ~~provision of law prohibiting an individual from paying a certain part of a certain~~
16 ~~grant received to another person for certain services;~~ providing that certain
17 provisions do not prohibit an individual from contracting for legal services to obtain
18 certain compensation; establishing certain reporting requirements; requiring the
19 Board to direct a certain person to provide certain services to an individual who
20 receives ~~a certain grant~~ certain compensation; requiring the Board to contact a
21 certain individual within a certain period of time to develop a certain plan for
22 providing certain services; establishing the purpose of a plan developed under this
23 Act; requiring the Board to pay certain compensation to an individual if a court

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 reverses finally the conviction or adjudication of the individual; allowing an
 2 individual a subtraction modification under the Maryland income tax for the amount
 3 of ~~a certain grant~~ certain compensation to and the value of certain services received
 4 by a person erroneously convicted, sentenced, and confined under State law; making
 5 conforming changes; providing for the application of this Act; and generally relating
 6 to ~~grants~~ compensation to individuals erroneously convicted, sentenced, and
 7 confined and individuals whose convictions or adjudications are reversed by a court.

8 BY repealing and reenacting, with amendments,
 9 Article – State Finance and Procurement
 10 Section 10–501
 11 Annotated Code of Maryland
 12 (2015 Replacement Volume and 2017 Supplement)

13 BY adding to
 14 Article – State Finance and Procurement
 15 Section 10–502, 10–503, and 10–504
 16 Annotated Code of Maryland
 17 (2015 Replacement Volume and 2017 Supplement)

18 BY repealing and reenacting, without amendments,
 19 Article – Tax – General
 20 Section 10–207(a)
 21 Annotated Code of Maryland
 22 (2016 Replacement Volume and 2017 Supplement)

23 BY adding to
 24 Article – Tax – General
 25 Section 10–207(gg)
 26 Annotated Code of Maryland
 27 (2016 Replacement Volume and 2017 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 29 That the Laws of Maryland read as follows:

30 **Article – State Finance and Procurement**

31 10–501.

32 (a) (1) Subject to subsection (b) of this section, the Board of Public Works
 33 [may] ~~SHALL grant to~~ **COMPENSATE** an individual erroneously convicted, sentenced, and
 34 confined under State law for a crime the individual did not commit **IN** an amount
 35 ~~commensurate with~~ **EQUAL TO THE GREATER OF:**

36 **(I) \$50,000 FOR EACH YEAR THAT THE INDIVIDUAL WAS IN**
 37 **CUSTODY; OR**

1 (II) the actual damages sustained by the individual, ~~and may grant~~
2 ~~a reasonable amount for any financial or other appropriate counseling for the individual,~~
3 ~~due to the confinement~~ INCLUDING THE AMOUNTS OF ANY FINES, GOVERNMENTAL
4 FEES, COSTS, AND RESTITUTION PREVIOUSLY PAID BY THE INDIVIDUAL AND
5 DETERMINED BY A COURT TO BE OWED TO THE INDIVIDUAL.

6 (2) THE BOARD OF PUBLIC WORKS MAY PROVIDE ADDITIONAL
7 COMPENSATION FOR APPROPRIATE COUNSELING, INCLUDING FINANCIAL
8 COUNSELING, TO THE INDIVIDUAL ERRONEOUSLY CONVICTED.

9 ~~(2) A GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL~~
10 ~~INCLUDE:~~

11 ~~(i) AT LEAST \$50,000 FOR EACH YEAR THAT THE INDIVIDUAL~~
12 ~~WAS IN CUSTODY; AND~~

13 ~~(H) (3)~~ (3) IN ADDITION TO THE COMPENSATION AWARDED
14 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF PUBLIC WORKS
15 SHALL COMPENSATE THE INDIVIDUAL A REASONABLE AMOUNT NOT EXCEEDING
16 \$10,000 FOR PAYMENT OF THE INDIVIDUAL'S LIVING EXPENSES ON RELEASE FROM
17 CONFINEMENT.

18 (4) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
19 PARAGRAPH, AN INDIVIDUAL WHO SEEKS COMPENSATION UNDER THIS SECTION
20 MAY NOT FILE OR MAINTAIN A SEPARATE LEGAL ACTION FOR COMPENSATION FROM
21 THE STATE OR A LOCAL GOVERNMENT FOR AN ERRONEOUS CONVICTION,
22 SENTENCE, OR CONFINEMENT.

23 (II) IF THE BOARD OF PUBLIC WORKS DENIES AN APPLICATION
24 BY AN INDIVIDUAL FOR COMPENSATION UNDER THIS SECTION, THE INDIVIDUAL MAY
25 MAINTAIN A SEPARATE LEGAL ACTION FOR COMPENSATION FROM THE STATE OR A
26 LOCAL GOVERNMENT FOR AN ERRONEOUS CONVICTION, SENTENCE, OR
27 CONFINEMENT.

28 ~~(3) In making a grant under paragraph (1) of this subsection, the Board of~~
29 ~~Public Works shall use money in the General Emergency Fund or money that the Governor~~
30 ~~provides in the annual budget.~~

31 (b) An individual is eligible for ~~a grant~~ COMPENSATION under subsection (a) of
32 this section if:

33 (1) the individual has received from the Governor a full pardon stating that
34 the individual's conviction has been shown conclusively to be in error; or

(2) the State's Attorney certifies that the individual's conviction was in error [under § 8-301 of the Criminal Procedure Article].

(c) The Board of Public Works may pay the ~~grant~~ COMPENSATION determined under subsection (a) of this section in a lump sum or in installments.

~~{(d) (1) The Board of Public Works may not pay any part of a grant made under this section to any individual other than the erroneously convicted individual.~~

~~(2) (i) (D)~~ **(1)** An individual may not pay any part of a ~~grant~~ THE COMPENSATION received under this section to another person for services rendered in connection with the collection of the ~~grant~~ COMPENSATION.

~~(ii) (2)~~ An obligation incurred in violation of this paragraph is void.

~~(iii) (3)~~ A payment made in violation of this paragraph shall be forfeited to the State.

(e) ~~This~~ NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THIS section does not prohibit an individual from contracting for LEGAL services to:

(1) determine the individual's innocence;

(2) obtain a pardon; ~~or~~

(3) obtain the individual's release from confinement; OR

(4) OBTAIN COMPENSATION UNDER THIS SECTION.

~~(F) (F)~~ **ON OR BEFORE DECEMBER 31, 2018, AND ANNUALLY THEREAFTER, THE BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON ANY ~~GRANTS~~ COMPENSATION AWARDED UNDER THIS SECTION.**

10-502.

~~(A) FOR AN INDIVIDUAL WHO RECEIVES A GRANT UNDER § 10-501 OF THIS SUBTITLE, THE BOARD OF PUBLIC WORKS SHALL ALSO PROVIDE TO THE INDIVIDUAL FREE OF CHARGE:~~

(A) FOR AN INDIVIDUAL WHO RECEIVES COMPENSATION UNDER § 10-501 OF THIS SUBTITLE, THE BOARD OF PUBLIC WORKS SHALL DIRECT THE APPROPRIATE STATE AGENCY OR SERVICE PROVIDER, OR CONTRACT WITH AN APPROPRIATE ENTITY, TO PROVIDE TO THE INDIVIDUAL FREE OF CHARGE:

1 (1) A STATE IDENTIFICATION CARD AND ANY OTHER DOCUMENT
2 NECESSARY FOR THE INDIVIDUAL'S HEALTH OR WELFARE ON THE INDIVIDUAL'S
3 RELEASE FROM CONFINEMENT;

4 (2) HOUSING ACCOMMODATIONS AVAILABLE ON THE INDIVIDUAL'S
5 RELEASE FROM CONFINEMENT FOR A PERIOD NOT EXCEEDING 5 YEARS;

6 (3) EDUCATION AND TRAINING RELEVANT TO LIFE SKILLS AND JOB
7 AND VOCATIONAL TRAINING FOR A PERIOD OF TIME UNTIL THE INDIVIDUAL ELECTS
8 NO LONGER TO RECEIVE THE EDUCATION AND TRAINING;

9 (4) HEALTH CARE AND DENTAL CARE FOR AT LEAST 5 YEARS AFTER
10 THE INDIVIDUAL'S RELEASE FROM CONFINEMENT; AND

11 (5) ACCESS TO ENROLLMENT AT AND PAYMENT OF TUITION AND FEES
12 FOR ATTENDING A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION, A REGIONAL
13 HIGHER EDUCATION CENTER, OR THE BALTIMORE CITY COMMUNITY COLLEGE FOR
14 A PERIOD OF ENROLLMENT NOT EXCEEDING 5 YEARS.

15 (B) (1) THE BOARD OF PUBLIC WORKS SHALL CONTACT AN INDIVIDUAL
16 ~~PRIOR TO~~ BEFORE THE INDIVIDUAL'S RELEASE FROM CONFINEMENT TO DEVELOP A
17 PLAN FOR PROVIDING SERVICES UNDER THIS SECTION.

18 (2) THE PURPOSE OF THE PLAN DEVELOPED UNDER THIS
19 SUBSECTION IS TO ENSURE THAT THE INDIVIDUAL IS ABLE TO SUCCESSFULLY
20 REENTER AND REINTEGRATE INTO THE COMMUNITY AFTER THE INDIVIDUAL HAS
21 BEEN RELEASED FROM CONFINEMENT.

22 (C) ON OR BEFORE DECEMBER 31, 2018, AND ANNUALLY THEREAFTER, THE
23 BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL ASSEMBLY, IN
24 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
25 SERVICES PROVIDED UNDER THIS SECTION.

26 10-503.

27 (A) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO RECEIVES
28 COMPENSATION UNDER § 10-501 OF THIS SUBTITLE.

29 (B) IF A COURT REVERSES FINALLY THE CONVICTION OR ADJUDICATION OF
30 AN INDIVIDUAL AND ORDERS THAT FINES, GOVERNMENTAL FEES, COSTS, OR
31 RESTITUTION THAT WERE PAID BY THE INDIVIDUAL IN CONNECTION WITH THE
32 CONVICTION OR ADJUDICATION BE REFUNDED, THE BOARD OF PUBLIC WORKS
33 SHALL COMPENSATE THE INDIVIDUAL FOR THE AMOUNT DETERMINED BY THE

1 COURT TO BE OWED TO THE INDIVIDUAL FOR FINES, FEES, COSTS, AND RESTITUTION
 2 PREVIOUSLY PAID BY THE INDIVIDUAL.

3 10-504.

4 IN AWARDING COMPENSATION UNDER THIS SUBTITLE, THE BOARD OF PUBLIC
 5 WORKS SHALL USE MONEY IN THE GENERAL EMERGENCY FUND OR MONEY THAT
 6 THE GOVERNOR PROVIDES IN THE ANNUAL BUDGET.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 8 as follows:

9 **Article – Tax – General**

10 10-207.

11 (a) To the extent included in federal adjusted gross income, the amounts under
 12 this section are subtracted from the federal adjusted gross income of a resident to determine
 13 Maryland adjusted gross income.

14 (GG) **THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
 15 **THE AMOUNT OF ~~A GRANT~~ ANY COMPENSATION UNDER § 10-501 OR § 10-503 OF THE**
 16 **STATE FINANCE AND PROCUREMENT ARTICLE AND THE VALUE OF ANY SERVICES**
 17 **RECEIVED UNDER § 10-502 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**
 18 **BY A PERSON ~~ERRONEOUSLY CONVICTED, SENTENCED, AND CONFINED UNDER~~**
 19 **STATE LAW.**

20 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
 21 construed to apply only prospectively and may not be applied or interpreted to have any
 22 effect on or application to any compensation awarded by the Board of Public Works before
 23 the effective date of this Act.

24 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect~~
 25 July 1, 2018, and Section 2 of this Act shall be applicable to all taxable years beginning
 26 after December 31, ~~2018~~ 2017.

27 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 28 1, 2018.