

HOUSE BILL 1184

P1, E2

9lr1319
CF SB 191

By: **Delegates Dumais and Rosenberg**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Compensation to Individual Erroneously Convicted, Sentenced, and Confined**
3 **or Whose Conviction or Adjudication Is Reversed**

4 FOR the purpose of altering a provision of law to require, rather than authorize, the Board
5 of Public Works to pay certain compensation to a certain individual who has been
6 erroneously convicted, sentenced, and confined; requiring certain compensation
7 made by the Board to include certain amounts; requiring certain compensation to
8 include the amounts of certain fines, governmental fees, costs, and restitution;
9 repealing a provision of law limiting eligibility for certain compensation to certain
10 situations in which a State's Attorney has certified that a conviction was in error
11 under a certain provision of law; repealing a provision of law prohibiting the Board
12 from paying any individual other than an erroneously convicted individual;
13 providing that certain provisions do not prohibit an individual from contracting for
14 legal services to obtain certain compensation; establishing certain reporting
15 requirements; requiring the Board to direct a certain person to provide certain
16 services to an individual who receives certain compensation; requiring the Board to
17 adopt certain regulations by a certain date; requiring the Board to pay certain
18 compensation to an individual if a court reverses finally the conviction or
19 adjudication of the individual; allowing an individual a subtraction modification
20 under the Maryland income tax for the amount of certain compensation to and the
21 value of certain services received by an individual erroneously convicted, sentenced,
22 and confined under State law; making conforming changes; providing for the
23 application of this Act; and generally relating to compensation to individuals
24 erroneously convicted, sentenced, and confined and individuals whose convictions or
25 adjudications are reversed by a court.

26 BY repealing and reenacting, with amendments,
27 Article – State Finance and Procurement
28 Section 10–501
29 Annotated Code of Maryland
30 (2015 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – State Finance and Procurement
 3 Section 10–502, 10–503, and 10–504
 4 Annotated Code of Maryland
 5 (2015 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article – Tax – General
 8 Section 10–207(a)
 9 Annotated Code of Maryland
 10 (2016 Replacement Volume and 2018 Supplement)

11 BY adding to
 12 Article – Tax – General
 13 Section 10–207(hh)
 14 Annotated Code of Maryland
 15 (2016 Replacement Volume and 2018 Supplement)

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

18 **Article – State Finance and Procurement**

19 10–501.

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

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

26 **(II) the actual damages sustained by the individual, [and may grant**
 27 **a reasonable amount for any financial or other appropriate counseling for the individual,**
 28 **due to the confinement] INCLUDING THE AMOUNTS OF ANY FINES, GOVERNMENTAL**
 29 **FEES, COSTS, AND RESTITUTION PREVIOUSLY PAID BY THE INDIVIDUAL AND**
 30 **DETERMINED BY A COURT TO BE OWED TO THE INDIVIDUAL.**

31 [(2) In making a grant under paragraph (1) of this subsection, the Board of
 32 Public Works shall use money in the General Emergency Fund or money that the Governor
 33 provides in the annual budget.]

34 **(2) IN ADDITION TO THE COMPENSATION AWARDED UNDER**
 35 **PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF PUBLIC WORKS MAY**

1 PROVIDE COMPENSATION FOR APPROPRIATE COUNSELING, INCLUDING FINANCIAL
2 COUNSELING, TO THE INDIVIDUAL ERRONEOUSLY CONVICTED.

3 (3) IN ADDITION TO THE COMPENSATION AWARDED UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF PUBLIC WORKS SHALL
5 COMPENSATE THE INDIVIDUAL A REASONABLE AMOUNT NOT EXCEEDING \$10,000
6 FOR PAYMENT OF THE INDIVIDUAL'S LIVING EXPENSES ON RELEASE FROM
7 CONFINEMENT.

8 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
9 PARAGRAPH, AN INDIVIDUAL WHO SEEKS COMPENSATION UNDER THIS SECTION
10 MAY NOT FILE OR MAINTAIN A SEPARATE LEGAL ACTION FOR COMPENSATION FROM
11 THE STATE OR A LOCAL GOVERNMENT FOR AN ERRONEOUS CONVICTION,
12 SENTENCE, OR CONFINEMENT.

13 (II) IF THE BOARD OF PUBLIC WORKS DENIES AN APPLICATION
14 BY AN INDIVIDUAL FOR COMPENSATION UNDER THIS SECTION, THE INDIVIDUAL MAY
15 MAINTAIN A SEPARATE LEGAL ACTION FOR COMPENSATION FROM THE STATE OR A
16 LOCAL GOVERNMENT FOR AN ERRONEOUS CONVICTION, SENTENCE, OR
17 CONFINEMENT.

18 (b) An individual is eligible for [a grant] COMPENSATION under subsection (a)
19 of this section if:

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

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

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

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

28 (2) (i)] An individual may not pay any part of [a grant] THE
29 COMPENSATION received under this section to another person for services rendered in
30 connection with the collection of the [grant] COMPENSATION.

31 [(ii)] (2) An obligation incurred in violation of this [paragraph]
32 SUBSECTION is void.

33 [(iii)] (3) A payment made in violation of this [paragraph]
34 SUBSECTION shall be forfeited to the State.

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

- 3 (1) determine the individual's innocence;
- 4 (2) obtain a pardon; [or]
- 5 (3) obtain the individual's release from confinement; OR
- 6 (4) OBTAIN COMPENSATION UNDER THIS SECTION.

7 (F) ON OR BEFORE DECEMBER 31, 2019, AND ANNUALLY THEREAFTER, THE
8 BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL ASSEMBLY, IN
9 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON ANY
10 COMPENSATION AWARDED UNDER THIS SECTION.

11 **10-502.**

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

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

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

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

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

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

30 (B) THE BOARD OF PUBLIC WORKS SHALL ADOPT REGULATIONS BY

1 **SEPTEMBER 1, 2019, TO ESTABLISH PROCEDURES FOR AN INDIVIDUAL WHO SEEKS**
2 **COMPENSATION UNDER THIS SUBTITLE FOR AN ERRONEOUS CONVICTION.**

3 **(C) ON OR BEFORE DECEMBER 31, 2019, AND ANNUALLY THEREAFTER, THE**
4 **BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL ASSEMBLY, IN**
5 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE**
6 **SERVICES PROVIDED UNDER THIS SECTION.**

7 **10-503.**

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

10 **(B) IF A COURT REVERSES FINALLY THE CONVICTION OR ADJUDICATION OF**
11 **AN INDIVIDUAL AND ORDERS THAT FINES, GOVERNMENTAL FEES, COSTS, OR**
12 **RESTITUTION THAT WERE PAID BY THE INDIVIDUAL IN CONNECTION WITH THE**
13 **CONVICTION OR ADJUDICATION BE REFUNDED, THE BOARD OF PUBLIC WORKS**
14 **SHALL COMPENSATE THE INDIVIDUAL FOR THE AMOUNT DETERMINED BY THE**
15 **COURT TO BE OWED TO THE INDIVIDUAL FOR FINES, FEES, COSTS, AND RESTITUTION**
16 **PREVIOUSLY PAID BY THE INDIVIDUAL.**

17 **10-504.**

18 **IN AWARDING COMPENSATION UNDER THIS SUBTITLE, THE BOARD OF PUBLIC**
19 **WORKS SHALL USE MONEY IN THE GENERAL EMERGENCY FUND OR MONEY THAT**
20 **THE GOVERNOR PROVIDES IN THE ANNUAL BUDGET FOR THAT PURPOSE.**

21 **SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read**
22 **as follows:**

23 **Article – Tax – General**

24 **10-207.**

25 **(a) To the extent included in federal adjusted gross income, the amounts under**
26 **this section are subtracted from the federal adjusted gross income of a resident to determine**
27 **Maryland adjusted gross income.**

28 **(HH) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES**
29 **THE AMOUNT OF ANY COMPENSATION UNDER § 10-501 OR § 10-503 OF THE STATE**
30 **FINANCE AND PROCUREMENT ARTICLE AND THE VALUE OF ANY SERVICES**
31 **RECEIVED UNDER § 10-502 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**
32 **BY AN INDIVIDUAL.**

33 **SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be**

1 construed to apply retroactively to any application for compensation pending on or after
2 the effective date of this Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
4 construed to apply retroactively to allow a person to apply for modification of any
5 compensation awarded by the Board of Public Works between January 1, 1987, and June
6 30, 2019, inclusive.

7 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
8 applicable to all taxable years beginning after December 31, 2018.

9 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2019.