

SENATE BILL 191

P1, E2

9lr1451
CF 9lr1319

By: **Senators Kelley, Augustine, Beidle, Carter, Ellis, Feldman, Griffith, Hayes, Hester, Lam, Lee, McCray, Nathan-Pulliam, Patterson, Peters, Pinsky, Rosapepe, Smith, Waldstreicher, Washington, Young, and Zucker**

Introduced and read first time: January 23, 2019

Assigned to: Judicial Proceedings

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2015 Replacement Volume and 2018 Supplement)

3 BY adding to
4 Article – State Finance and Procurement
5 Section 10–502, 10–503, and 10–504
6 Annotated Code of Maryland
7 (2015 Replacement Volume and 2018 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Tax – General
10 Section 10–207(a)
11 Annotated Code of Maryland
12 (2016 Replacement Volume and 2018 Supplement)

13 BY adding to
14 Article – Tax – General
15 Section 10–207(hh)
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2018 Supplement)

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

20 **Article – State Finance and Procurement**

21 10–501.

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

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

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

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

1 **(2) IN ADDITION TO THE COMPENSATION AWARDED UNDER**
2 **PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF PUBLIC WORKS MAY**
3 **PROVIDE COMPENSATION FOR APPROPRIATE COUNSELING, INCLUDING FINANCIAL**
4 **COUNSELING, TO THE INDIVIDUAL ERRONEOUSLY CONVICTED.**

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

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

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

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

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

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

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

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

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

33 [(ii)] **(2)** An obligation incurred in violation of this [paragraph]
34 **SUBSECTION** is void.

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

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

5 (1) determine the individual's innocence;

6 (2) obtain a pardon; [or]

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

8 (4) **OBTAIN COMPENSATION UNDER THIS SECTION.**

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

13 **10-502.**

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

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

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

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

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

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

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

5 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
6 applicable to all taxable years beginning after December 31, 2018.

7 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
8 1, 2019.