

WRONGFUL IMPRISONMENT

663A.1 Wrongful imprisonment cause of action.

1. As used in this section, a "*wrongfully imprisoned person*" means an individual who meets all of the following criteria:

a. The individual was charged, by indictment or information, with the commission of a public offense classified as an aggravated misdemeanor or felony.

b. The individual did not plead guilty to the public offense charged, or to any lesser included offense, but was convicted by the court or by a jury of an offense classified as an aggravated misdemeanor or felony.

c. The individual was sentenced to incarceration for a term of imprisonment not to exceed two years if the offense was an aggravated misdemeanor or to an indeterminate term of years under chapter 902 if the offense was a felony, as a result of the conviction.

d. The individual's conviction was vacated or dismissed, or was reversed, and no further proceedings can be or will be held against the individual on any facts and circumstances alleged in the proceedings which had resulted in the conviction.

e. The individual was imprisoned solely on the basis of the conviction that was vacated, dismissed, or reversed and on which no further proceedings can be or will be had.

2. Upon receipt of an order vacating, dismissing, or reversing the conviction and sentence in a case for which no further proceedings can be or will be held against an individual on any facts and circumstances alleged in the proceedings which resulted in the conviction, the district court shall make a determination whether there is clear and convincing evidence to establish either of the following findings:

a. That the offense for which the individual was convicted, sentenced, and imprisoned, including any lesser included offenses, was not committed by the individual.

b. That the offense for which the individual was convicted, sentenced, and imprisoned was not committed by any person, including the individual.

3. If the district court finds that there is clear and convincing evidence to support either of the findings specified in subsection 2, the district court shall do all of the following:

a. Enter an order finding that the individual is a wrongfully imprisoned person.

b. Orally inform the person and the person's attorney that the person has a right to commence a civil action against the state under chapter 669 on the basis of wrongful imprisonment.

4. Within seven days of entry of the order finding that an individual is a wrongfully imprisoned person, the clerk of court shall forward a copy of the order, together with a copy of this section, to the individual named in the order.

5. A claim for wrongful imprisonment under this section is a "claim" for purposes of chapter 669, notwithstanding anything in section 669.14 to the contrary. Notwithstanding section 669.8, however, an action brought under this section shall not preclude or otherwise limit any action or claim for relief based on any negligent or wrongful acts or omissions which arose during the period of the wrongful imprisonment, but which are not related to the facts and circumstances underlying the conviction or proceedings to obtain relief from the conviction.

6. Damages recoverable from the state by a wrongfully imprisoned person under this section are limited to the following:

a. The amount of restitution for any fine, surcharge, other penalty, or court costs imposed and paid and any reasonable attorney's fees and expenses incurred in connection with all criminal proceedings and appeals regarding the wrongfully imposed judgment and sentence and such fees and expenses incurred in connection with any civil actions and proceedings for postconviction relief which are related to the wrongfully imposed judgment and sentence.

b. An amount of liquidated damages in an amount equal to fifty dollars per day of wrongful imprisonment.

c. The value of any lost wages, salary, or other earned income which directly resulted from the individual's conviction and imprisonment, up to twenty-five thousand dollars per year.

d. The value of reasonable attorney's fees for services provided in connection with an action under this section.

7. In awarding damages under this section, the state appeal board or the court shall not offset the award by any expenses incurred by the state or any political subdivision of the state in connection with the arrest, prosecution, and imprisonment of the individual, including, but not limited to, expenses for food, clothing, shelter, and medical care.

8. Actions under this section shall be commenced within two years of entry of the district court order adjudging the individual to be a wrongfully imprisoned person.

97 Acts, ch 196, §1