

HOUSE BILL NO. 352

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KAWASAKI

Introduced: 2/26/14

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to compensation for wrongful conviction and imprisonment."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 44.77.010(a) is amended to read:

4 (a) Except as provided in (d) of this section, every claim for reimbursement
5 for wrongful conviction and imprisonment, for money expended, or for
6 compensation for labor, materials, or supplies furnished, or services given to or for the
7 state, whether based on a contract or on a ratification, shall be promptly presented to
8 the appropriate administrative or executive officer for approval and payment.

9 * **Sec. 2.** AS 44.77 is amended by adding a new section to read:

10 **Sec. 44.77.018. Claims for wrongful conviction and imprisonment.** (a) A
11 claim under this section shall be presented to the attorney general. To obtain
12 compensation under this section for wrongful conviction and imprisonment, a person
13 shall show by a preponderance of the evidence that the person was convicted of one or
14 more offenses, was sentenced to a term of imprisonment, served all or any part of the
15 sentence, and

1 (1) the conviction on which the sentence was imposed was vacated or
 2 reversed because the person was not guilty, the charges on which the conviction was
 3 based were later dismissed or retried and the person found not guilty on retrial, or the
 4 person was pardoned because of innocence and wrongful conviction; and

5 (2) the person did not

6 (A) commit any of the crimes charged in the criminal action in
 7 which the person was convicted;

8 (B) commit perjury, induce another person to commit perjury,
 9 or fabricate evidence in a manner that caused the conviction; in this section, a
 10 false confession or admission or a guilty plea to a crime the person did not
 11 commit does not constitute cause for conviction.

12 (b) A person is not entitled to compensation under this section for a period of
 13 imprisonment for which the person was serving a concurrent sentence for another
 14 crime to which this section does not apply.

15 (c) A person who meets the requirements of this section is entitled to
 16 compensation in the amount of \$50,000 multiplied by the number of years served in
 17 prison, expressed as a fraction to reflect partial years, up to a maximum of \$2,000,000.

18 (d) A person who receives compensation under this section may not bring any
 19 action involving the same subject matter, including an action involving the person's
 20 arrest, conviction, or length of confinement, against the state or a municipal
 21 government or an official or employee of the state or a municipal government.

22 (e) A claim under this section must be filed within two years after the
 23 subsequent dismissal, not guilty verdict, or pardon under (a) of this section, except that
 24 the attorney general may authorize payment for a claim for wrongful imprisonment
 25 not filed within two years if the person filing the claim shows good cause for the
 26 delay.

27 * **Sec. 3.** AS 44.77.040(c) is amended to read:

28 (c) If the claimant does not accept the decision of the Department of
 29 Administration, the claimant may obtain judicial review of the decision in accordance
 30 with AS 44.62.560 - 44.62.570. **Except for a claim for wrongful conviction and**
 31 **imprisonment, a** [A] claimant may also bring an action under AS 09.50.250 -

1 09.50.300 at any time after one year has elapsed since the presentation of the claim
2 under AS 44.77.010, if no decision has been made by the department.

3 * **Sec. 4.** AS 44.77.070 is amended to read:

4 **Sec. 44.77.070. Applicability of AS 44.77.010 - 44.77.060. Except for a**
5 **claim for wrongful conviction and imprisonment,** AS 44.77.010 - 44.77.060 do not
6 apply to a department in the executive branch or to the legislative or judicial branches
7 if that department or branch has adopted a mandatory claims and appeal procedure.