

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 618

**Introduced by Senator Leno
(Principal coauthor: Senator Steinberg)**

February 22, 2013

An act to amend Sections 4900, 4901, 4902, and 4903 of, and to add ~~Section~~ *Sections 851.865, 1485.5, and 1485.55* to, the Penal Code, relating to wrongful convictions.

LEGISLATIVE COUNSEL'S DIGEST

SB 618, as amended, Leno. Wrongful convictions.

Existing law provides that any person who, having been convicted of any crime against the state amounting to a felony and imprisoned in the state prison for that conviction, is granted a pardon by the Governor for specified reasons, and having served the term or any part thereof for which he or she was imprisoned, may present a claim against the state to the California Victim Compensation and Government Claims Board for the pecuniary injury sustained by him or her through the erroneous conviction and imprisonment, as specified.

This bill would extend those provisions to a person who was incarcerated in county jail for a felony conviction. The bill would provide that if the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained, or when the court vacates a judgment for a person on the basis of newly discovered evidence concerning a person who is no longer unlawfully imprisoned or restrained, and if the court finds that the evidence on the petition points unerringly to innocence, the court's finding would be binding on the California Victim Compensation and Government Claims Board. The bill would provide that, upon application by the petitioner, the

California Victim Compensation and Government Claims Board would, without a hearing, be required to recommend to the Legislature that an appropriation be made, and the claim be paid, as specified.

The bill would also provide that when the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained, or when the court vacates a judgment in a criminal matter against a person, the California Victim Compensation and Government Claims Board, in making its determination as to any claim submitted by that person, would be required to incorporate and be consistent with the factual findings, including credibility determinations, of the court granting the writ or reversing the conviction, and that those factual findings, including credibility determinations, would be binding upon the board.

Existing law requires a claim for wrongful imprisonment be presented by the claimant to the California Victim Compensation and Government Claims Board within a period of 2 years after judgment of acquittal or discharge given, or after pardon granted, or after release from imprisonment in order to be considered by the board.

This bill would revise those provisions to extend the time period to be 2 years from release from custody. The bill would define custody for those purposes as release from imprisonment from state prison or from incarceration in county jail, where there is no subsequent parole jurisdiction or postrelease jurisdiction exercised by the Department of Corrections and Rehabilitation or community corrections program, respectively, or where there is a parole period or postrelease period subject to jurisdiction of a community corrections program, when that period ends.

Existing law requires the California Victim Compensation and Government Claims Board to, upon presentation of a claim, fix a time and place for the hearing of the claim, and to mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for the hearing.

~~This bill would require the board to determine within 30 days of receiving a claim if a hearing is not required, as specified, and in the event that a hearing is necessary, would require the board to order the Attorney General to respond to the claim within 60 days of the date of the order, or to request an extension of time, upon a showing of good cause, to file a response, *except in those cases involving a finding of factual innocence, as specified, or a finding by the court that facts point unerringly to innocence, as specified.* The bill would require the board~~

in those cases to calculate the compensation for the claimant within 30 days of presentation of the claim, as specified, and recommend to the Legislature the payment of that sum, as specified.

Existing law provides that at the hearing set by the board, the claimant is required to prove, among other things, the fact that he or she did not, by any act or omission on his or her part, intentionally contribute to the bringing about of his or her arrest or conviction for the crime with which he or she was charged. Existing law also provides that when determining whether the claimant intentionally contributed to the bringing about of his or her arrest or conviction, the factfinder shall not consider statements obtained from an involuntary false confession or involuntary plea, and that the claimant bears the burden of proving by a preponderance of the evidence that the statements were obtained from an involuntary false confession or involuntary plea.

This bill would delete those provisions. *The bill would authorize the board to deny a claim where a claimant has been convicted of fraud or obstruction of justice relating to the underlying conviction for which the claimant seeks compensation.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1485.5 is added to the Penal Code, to~~
2 ~~read:~~
3 ~~1485.5. (a) When the court grants a writ of habeas corpus~~
4 ~~concerning a person who is unlawfully imprisoned or restrained,~~
5 ~~or when the court vacates a judgment in a criminal matter against~~
6 ~~a person, the California Victim Compensation and Government~~
7 ~~Claims Board, in making its determination as to any claim~~
8 ~~submitted by that person, shall incorporate and be consistent with~~
9 ~~the factual findings, including credibility determinations, of the~~
10 ~~court granting the writ or reversing the conviction, and those factual~~
11 ~~findings, including credibility determinations, shall be binding~~
12 ~~upon the board. In the event that the reversal of a conviction was~~
13 ~~uncontested by the prosecution, the factual allegations of the~~
14 ~~petition for writ of habeas corpus shall be deemed true allegations,~~
15 ~~and the findings and determinations of the board shall incorporate~~
16 ~~and be consistent with the allegations, and those uncontested~~
17 ~~allegations shall be binding upon the board.~~

1 (b) ~~If the claimant has secured a declaration of factual innocence~~
2 ~~from the court pursuant to Section 851.8 or 851.86, the finding~~
3 ~~shall be certain grounds for payment of compensation for a claim~~
4 ~~made pursuant to Section 4900. Upon application by the petitioner,~~
5 ~~the California Victim Compensation and Government Claims~~
6 ~~Board shall, without a hearing, recommend to the Legislature that~~
7 ~~an appropriation be made and the claim paid pursuant to Section~~
8 ~~4904.~~

9 *SECTION 1. Section 851.865 is added to the Penal Code, to*
10 *read:*

11 *851.865. (a) If the claimant has secured a declaration of*
12 *factual innocence from the court pursuant to Section 851.8 or*
13 *851.86, the finding shall be sufficient grounds for payment of*
14 *compensation for a claim made pursuant to Section 4900. Upon*
15 *application by the petitioner, the California Victim Compensation*
16 *and Government Claims Board shall, without a hearing,*
17 *recommend to the Legislature that an appropriation be made and*
18 *the claim paid pursuant to Section 4904.*

19 *(b) If the declaration of factual innocence is granted pursuant*
20 *to a stipulation of the prosecutor, the duty of the board to, without*
21 *a hearing, recommend to the Legislature payment of the claim,*
22 *shall apply.*

23 *SEC. 2. Section 1485.5 is added to the Penal Code, to read:*

24 *1485.5. (a) If the district attorney or Attorney General*
25 *stipulates to or does not contest the factual allegations underlying*
26 *one or more of the grounds for granting a writ of habeas corpus*
27 *or a motion to vacate a judgment, those facts shall be binding on*
28 *the Attorney General, the factfinder, and the board.*

29 *(b) Factual findings made by the court, including credibility*
30 *determinations, in considering a petition for habeas corpus, a*
31 *motion for new trial pursuant to Section 1473.6, or an application*
32 *for a certificate of factual innocence, shall be binding on the*
33 *Attorney General, the factfinder, and the board.*

34 *SEC. 3. Section 1485.55 is added to the Penal Code, to read:*

35 *1485.55. If the court grants a writ of habeas corpus concerning*
36 *a person who is unlawfully imprisoned or restrained, or when,*
37 *pursuant to Section 1473.6, the court vacates a judgment for a*
38 *person on the basis of newly discovered evidence concerning a*
39 *person who is no longer unlawfully imprisoned or restrained, and*
40 *if the court finds that the evidence on the petition points unerringly*

1 *to innocence, that finding shall be binding on the California Victim*
2 *Compensation and Government Claims Board for a claim*
3 *presented pursuant to subdivision (a), and upon application by*
4 *the petitioner, the board shall, without a hearing, recommend to*
5 *the Legislature that an appropriation be made and the claim paid*
6 *pursuant to Section 4904.*

7 ~~SEC. 2.~~

8 *SEC. 4.* Section 4900 of the Penal Code is amended to read:

9 4900. ~~(a)~~ Any person who, having been convicted of any crime
10 against the state amounting to a felony and imprisoned in the state
11 prison or incarcerated in county jail pursuant to subdivision (h) of
12 Section 1170 for that conviction, is granted a pardon by the
13 Governor for the reason that the crime with which he or she was
14 charged was either not committed at all or, if committed, was not
15 committed by him or her, or who, being innocent of the crime with
16 which he or she was charged for either of the foregoing reasons,
17 shall have served the term or any part thereof for which he or she
18 was imprisoned in state prison or incarcerated in county jail, may,
19 under the conditions provided under this chapter, present a claim
20 against the state to the California Victim Compensation and
21 Government Claims Board for the pecuniary injury sustained by
22 him or her through the erroneous conviction and imprisonment or
23 incarceration.

24 ~~(b) If the court grants a writ of habeas corpus concerning a~~
25 ~~person who is unlawfully imprisoned or restrained, or when,~~
26 ~~pursuant to Section 1473.6, the court vacates a judgment for a~~
27 ~~person on the basis of newly discovered evidence concerning a~~
28 ~~person who is no longer unlawfully imprisoned or restrained, and~~
29 ~~if the court finds that the evidence on the petition points unerringly~~
30 ~~to innocence, that finding shall be binding on the California Victim~~
31 ~~Compensation and Government Claims Board for a claim presented~~
32 ~~pursuant to subdivision (a), and upon application by the petitioner,~~
33 ~~the California Victim Compensation and Government Claims~~
34 ~~Board shall, without a hearing, recommend to the Legislature that~~
35 ~~an appropriation be made and the claim paid pursuant to Section~~
36 ~~4904.~~

37 ~~SEC. 3.~~

38 *SEC. 5.* Section 4901 of the Penal Code is amended to read:

39 4901. (a) A claim under Section 4900, accompanied by a
40 statement of the facts constituting the claim, verified in the manner

1 provided for the verification of complaints in civil actions, is
2 required to be presented by the claimant to the California Victim
3 Compensation and Government Claims Board within a period of
4 two years after judgment of acquittal or discharge given, or after
5 pardon granted, or after release from custody, and no claim not so
6 presented shall be considered by the California Victim
7 Compensation and Government Claims Board.

8 (b) For purposes of subdivision (a), “release from custody”
9 means release from imprisonment from state prison or from
10 incarceration in county jail when there is no subsequent parole
11 jurisdiction exercised by the Department of Correction and
12 Rehabilitation or postrelease jurisdiction under a community
13 corrections program, or when there is a parole period or postrelease
14 period subject to jurisdiction of a community corrections program,
15 when that period ends.

16 ~~SEC. 4.~~

17 *SEC. 6.* Section 4902 of the Penal Code is amended to read:

18 4902. ~~The~~ *If the provisions of Section 861.865 or Section*
19 *1485.55 apply in any claim, the California Victim Compensation*
20 *and Government Claims Board shall determine within 30 days of*
21 *the presentation of a claim pursuant to Section 4900 if a hearing*
22 *is not necessary pursuant to subdivision (b) of Section 4900. In*
23 *the event that a hearing is necessary, shall, within 30 days of the*
24 *presentation of the claim, calculate the compensation for the*
25 *claimant pursuant to Section 4904 and recommend to the*
26 *Legislature payment of that sum. As to any claim to which Section*
27 *861.865 or 1485.55 does not apply, the board shall order the*
28 *Attorney General to respond to the claim within 60 days of the*
29 *date of the order, or to request an extension of time, upon a*
30 *showing of good cause, to file a response. Upon receipt of a*
31 *response from the Attorney General, the board shall fix a time and*
32 *place for the hearing of the claim, and shall mail notice thereof to*
33 *the claimant and to the Attorney General at least 15 days prior to*
34 *the time fixed for the hearing. The board shall use reasonable*
35 *diligence in setting the date for the hearing and shall attempt to*
36 *set the date for the hearing at the earliest date convenient for the*
37 *parties and the board.*

38 ~~SEC. 5.~~

39 *SEC. 7.* Section 4903 of the Penal Code is amended to read:

1 4903. (a) At the hearing the claimant shall introduce evidence
2 in support of the claim, and the Attorney General may introduce
3 evidence in opposition thereto. The claimant shall prove the facts
4 set forth in the statement constituting the claim, including the fact
5 that the crime with which he or she was charged was either not
6 committed at all, or, if committed, was not committed by him or
7 her, and the pecuniary injury sustained by him or her through his
8 or her erroneous conviction and imprisonment. ~~The~~

9 (b) ~~The Attorney General and~~, the factfinder, *and the board*
10 shall incorporate *and be consistent with* the factual findings and
11 determinations, including credibility determinations, of the court
12 ~~reversing the conviction, in the manner which heard the petition~~
13 *for habeas corpus, a motion for new trial pursuant to Section*
14 *1473.6, or an application for a certificate of factual innocence as*
15 *described in Section 1485.5.*

16 (c) *The board may deny payment of any claim where a claimant*
17 *has been convicted of fraud or obstruction of justice relating to*
18 *the underlying conviction for which the claimant is seeking*
19 *compensation.*