

AMENDED IN SENATE APRIL 29, 2015

SENATE BILL

No. 635

Introduced by ~~Senator~~ *Senators Nielsen and Leno*
(Coauthors: Senators Anderson, Monning, and Stone)

February 27, 2015

An act to amend Section 4904 of the Penal Code, relating to erroneously convicted and imprisoned persons.

LEGISLATIVE COUNSEL'S DIGEST

SB 635, as amended, Nielsen. Erroneous conviction and imprisonment: compensation.

Existing law provides that a person who (1) has been convicted of a felony and imprisoned in the state prison or incarcerated in a county jail for that conviction, (2) is granted a pardon by the Governor for specified reasons, and (3) has 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. Existing law provides an opportunity for the Attorney General to respond to a claim, and for a hearing on the claim, as specified. Existing law provides that if the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant has sustained pecuniary injury through his or her erroneous conviction and imprisonment, the California Victim Compensation and Government Claims Board shall report the facts of the case and its conclusions to the Legislature, with a recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury.

Existing law provides that the amount of the recommended appropriation shall be a sum equivalent to \$100 per day of incarceration served after the claimant was convicted.

This bill would expand the scope of a compensable injury to include nonpecuniary injuries. The bill would increase the amount of the recommended appropriation to ~~\$136.98~~ \$140 per day of incarceration served after the claimant was convicted, ~~but not to exceed \$50,000 per year for each full year of incarceration served.~~ *as specified.* This bill would make other technical, nonsubstantive changes.

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

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

1 SECTION 1. Section 4904 of the Penal Code is amended to
2 read:
3 4904. If the evidence shows that the crime with which the
4 claimant was charged was either not committed at all, or, if
5 committed, was not committed by the claimant, and that the
6 claimant has sustained ~~pecuniary~~ injury through his or her
7 erroneous conviction and imprisonment, the California Victim
8 Compensation and Government Claims Board shall report the facts
9 of the case and its conclusions to the next Legislature, with a
10 recommendation that an appropriation be made by the Legislature
11 for the purpose of indemnifying the claimant for the ~~pecuniary~~
12 injury. The amount of the appropriation recommended shall be a
13 sum equivalent to one hundred ~~thirty-six~~ *forty* dollars ~~and~~
14 ~~ninety-eight cents~~ ~~(\$136.98)~~ *(\$140)* per day of incarceration served,
15 ~~but not to exceed fifty thousand dollars (\$50,000) per year for~~
16 ~~every full year of incarceration served, subsequent to the claimant's~~
17 ~~conviction.~~ *and shall include any time spent in custody, including*
18 *in county jail, that is considered to be part of the term of*
19 *incarceration.* That appropriation shall not be treated as gross
20 income to the recipient under the Revenue and Taxation Code.

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