

Date of Hearing: March 21, 2023

Counsel: Liah Burnley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 997 (Gipson) – As Amended March 16, 2023

SUMMARY: Requires the California Victim Compensation Board (the Board) to reimburse an exonerated person for mental health services related to their incarceration. Specifically, **this bill:**

- 1) Requires the Board to reimburse an exonerated person, or provide direct payment to their provider, for mental health services reasonably related to their incarceration.
- 2) States that if a person was incarcerated for eight or more years, the Board shall reimburse the person for services for no less than two years.
- 3) Prohibits reimbursement for services for a period of time exceeding the amount of time the person was incarcerated.
- 4) Requires the Board to provide individual payment or reimbursement no more than 30 days after a claim is submitted.
- 5) Excludes mental health services already reimbursed by CDCR for specified exonerated persons from these provisions.
- 6) Defines “Exonerated person” as any person whose claim for wrongful conviction compensation is approved by the Board.
- 7) Provide that these provisions are subject to appropriation by the Legislature.

EXISTING LAW:

- 1) Requires CDCR to assist a person who is exonerated as to a conviction for which the person is serving a state prison sentence at the time of exoneration with transitional services, including among other things, mental health services. The services shall be offered within the first week of an individual’s exoneration and again within the first 30 days of exoneration. Services shall be provided for a period of not less than six months and not more than one year from the date of release unless the exonerated person qualifies for services beyond one year, as specified. (Pen. Code, § 3007.05, subd. (h).)
- 2) Provides that each person who is exonerated shall be paid \$1,000 upon their release from incarceration from funds to be made available upon appropriation by the Legislature. This amount is in addition to any other payment to which the exonerated person is entitled to by law. (Pen. Code, § 3007.05, subd. (i).)

- 3) Defines “exonerated” as a person who has been convicted and subsequently either of the following occurred:
 - a) A writ of habeas corpus concerning the person was granted on the basis that the evidence unerringly points to innocence, or the person’s conviction was reversed on appeal on the basis of insufficient evidence;
 - b) A writ of habeas corpus concerning the person was granted, either resulting in dismissal of the criminal charges or following a determination that the person is entitled to release on their own recognizance , or to bail pending retrial or pending appeal; or,
 - c) The person was given an absolute pardon by the governor on the basis that the person was innocent. (Pen. Code, § 3007.05, subd. (i).)
- 4) Requires the court to inform a person whose conviction has been set aside based upon a determination that the person was factually innocent of the charge of the availability of indemnity for persons erroneously convicted and the time limitations for presenting those claims. (Pen. Code, § 851.86.)
- 5) States that if a person has secured a declaration of factual innocence, the finding shall be sufficient grounds for compensation by the Board. Upon application the Board shall, without a hearing, recommend to the Legislature that an appropriation be made. (Pen. Code, § 851.865.)
- 6) Allows any person convicted of a felony and imprisoned in the state prison or incarcerated in county jail for that conviction, that is granted a pardon by the Governor because the crime was not committed or, if committed, was not committed by the person, and who served the term or any part thereof in state prison or county jail, to present a claim against the state to the Board for the erroneous conviction and imprisonment or incarceration. (Pen. Code, § 4900.)
- 7) Requires a claim to be presented by the claimant to the Board within a period of 10 years after judgment of acquittal, dismissal of charges, pardon, or release from custody, whichever is later. (Pen. Code, § 4901.)
- 8) Requires the Board to approve payment for the purpose of indemnifying the claimant for the injury if sufficient funds are available, upon appropriation by the Legislature. The amount of the payment is \$140 per day of incarceration served, and any time spent in custody, including in a county jail, is considered to be part of the term of incarceration. (Pen. Code, § 4904.)

FISCAL EFFECT: Unknown**COMMENTS:**

- 1) **Author's Statement:** According to the author, “AB 997 is a piece of good legislation that provides restitution to a small population of Californians who have been wrongfully convicted. These exonerees have lost valuable years of their lives that can never be given back. Mental health services are essential in helping heal the scars on oneself while being

incarcerated.”

- 2) **Wrongful Conviction Compensation:** The Board processes claims from persons seeking compensation for their erroneous convictions. (Pen. Code, §§ 4900-406.) A successful claim results in a recommendation to the Legislature to appropriate compensation in the amount of \$140 per day of incarceration in a state prison or county jail. (Pen. Code, §4904.) To be eligible, the claimant must have been convicted of a felony and the claimant must timely submit a claim within 10 years after release from custody, dismissal of charges, judgment of acquittal, or pardon granted, whichever is later. (California Victim Compensation Board, *Claims for Erroneously Convicted Persons* <<https://victims.ca.gov/legal/pc4900/>> [as of March 10, 2023].)
- 3) **Current Mental Health Services for Exonerees:** Existing law requires CDCR to provide some transitional services for exonerees, including mental health services. (Pen. Code, § 3007.05, subd. (h).) However, CDCR must only provide transitional services, including mental health services, for a minimum of six months and a maximum of one year from the date of release, unless the person otherwise qualifies for services beyond one year. (*Ibid.*) In addition, these services are only offered to persons who are exonerated as to a conviction for which they are serving a state prison sentence; no such relief is afforded to persons who are exonerated as to a conviction for which they are serving a sentence in county jail pursuant to realignment.

This bill would specify that the mental health services related to a person’s wrongful incarceration, except those that are already reimbursed by CDCR, are reimbursable by the Board.

- 4) **Argument in Support:** According to the *California Public Defenders Association* (CPDA), “CPDA members represent those who have been wrongfully accused and convicted. We have witnessed our clients try and restore their life back to some semblance of normalcy following a wrongful conviction. Obtaining employment and securing housing are daunting enough without dealing with the lingering trauma of being wrongfully convicted and incarcerated. It is important for individuals to receive mental health treatment for that trauma. Access to mental health services promotes public safety.”

“Victims of wrongful conviction and incarceration should not be burdened with the additional expense of paying for mental health treatment. AB 997 is an attempt to rectify the harms of wrongful conviction and incarceration. While the time lost serving a sentence following a wrongful conviction can never be recouped, attempting to make the wronged individual whole is the least the State can do.”

- 5) **Related Legislation:** SB 530 (Bradford), would delete the requirement that the claimant for wrongful conviction compensation show they have sustained an injury through their erroneous conviction and imprisonment. SB 530 is pending hearing in Senate Public Safety Committee.

- 6) **Prior Legislation:**

- a) AB 701 (Weber), Chapter 435, Statutes of 2019, requires payment of \$5,000 to an exonerated person, upon release, for housing and entitles the person to receive direct

payment or reimbursement for reasonable housing costs, including, among others, rent and hotel costs for a period of not more than 4 years.

- b) AB 702 (Weber), of the 2019-2020 Legislative Session, would have required the Board to provide reimbursement from the fund to any exonerated individual, as defined, for mental health services, as specified. AB 702 was held in Assembly Appropriations Committee.
- c) AB 703 (Weber), Chapter 463, Statutes of 2019, prohibits the Board of Governors of the California Community Colleges, the Trustees of the California State University, and the Regents of the University of California from collecting mandatory tuition and fees from exonerated persons.
- d) SB 1050 (Lara), Chapter 979, Statutes of 2018, expanded transitional services for exonerated persons, and requires exonerated persons to be paid \$1,000 upon release from incarceration.
- e) AB 672 (Jones-Sawyer), Chapter 403, Statutes of 2015, requires CDCR to provide transitional services to exonerated persons upon their release.
- f) AB 618 (Leno), Chapter 800, Statutes of 2013, streamlined the process for compensating persons exonerated after being wrongfully convicted and imprisoned.

REGISTERED SUPPORT / OPPOSITION:**Support**

California for Safety and Justice
California Public Defenders Association (CPDA)

Opposition

None submitted.

Analysis Prepared by: Liah Burnley / PUB. S. / (916) 319-3744