
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 997 **Hearing Date:** June 20, 2023
Author: Gipson
Version: May 18, 2023
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Exoneration: mental health services*

HISTORY

Source: Exonerated Nation

Prior Legislation: AB 701 (Weber), Ch. 435, Stats. 2019
AB 702 (Weber), held in Assem. Approps, 2019
SB 1050 (Lara), Ch. 979, Stats. 2018
AB 672 (Jones-Sawyer), Ch. 403, Stats. 2015
AB 618 (Leno), Ch. 800, Stats. 2013

Support: California Attorneys for Criminal Justice; California Faculty Association;
California Public Defenders Association; Californians for Safety and Justice;
National Association of Social Workers, California Chapter; Prosecutors Alliance
California

Opposition: None known

Assembly Floor Vote: 80 - 0

PURPOSE

The purpose of this bill is to require the California Victim Compensation Board to reimburse an exonerated person for mental health services reasonably related to their incarceration, as specified.

Existing law requires the California Department of Corrections (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).)

Existing law 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).)

Existing law defines “exonerated” as a person who has been convicted and subsequently either of the following occurred:

- 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;
- 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,
- The person was given an absolute pardon by the governor on the basis that the person was innocent. (Pen. Code, § 3007.05, subd. (i).)

Existing law 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.)

Existing law states that if a person has secured a declaration of factual innocence, the finding shall be sufficient grounds for compensation by the California Victim Compensation Board (“the board”). Upon application the Board shall, without a hearing, recommend to the Legislature that an appropriation be made. (Pen. Code, § 851.865.)

Existing law authorizes a person who, having been convicted of any crime amounting to a felony and imprisoned in the state prison or county jail, is granted a pardon by the Governor for the reason that the crime with which they were charged was either not committed at all or, if committed, was not committed by the person, or who, being innocent of the crime with which they were charged for either of those reasons, were imprisoned in state prison or county jail, may present a claim against the state to the board for the wrongful conviction. (Pen. Code, § 4900, subd. (a).)

Existing law 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 compensation shall be a sum equivalent to \$140 per day of incarceration served, and shall include any time spent in custody, including in a county jail, that is considered to be part of the term of incarceration. That appropriation shall not be treated as gross income to the recipient under the Revenue and Taxation Code. (Pen. Code, § 4904.)

This bill states that the board shall, upon appropriation by the Legislature for this purpose, reimburse an exonerated person, or provide direct payment to their provider, for mental health services reasonably related to their incarceration.

This bill provides that if a person was incarcerated for 8 or more years, the board shall allocate, in addition to the amount contained in an approved claim, an amount intended to be used for mental health services as follows:

- If the individual was incarcerated for 8 to 12 years, inclusive, \$15,000 per year for up to 4 years; or,
- If the individual was incarcerated for more than 12 years, \$15,000 per year for up to 6 years.

This bill prohibits the board from reimbursing the person for services for a period of time exceeding the amount of time the person was incarcerated.

This bill states that the board shall provide individual payment or reimbursement no more than 30 days after a claim is submitted.

This bill provides that an “exonerated person” is any person whose erroneous conviction claim is approved by the California Victim Compensation Board on or after January 1, 2024.

COMMENTS

1. Need for this Bill

According to the author of this bill:

After being released from prison, the exonerated are “free”, but still carry mental wounds and the stigma that comes with being formerly incarcerated. For example, the long-term psychological effects of unjust imprisonment manifest only after exoneration and can result in severe disruption, dysregulation, and dysfunction. These devastating mental health outcomes resemble that of military veterans and torture survivors who suffer from extreme forms of trauma. Being incarcerated for a crime they did not commit not only affects an individual’s lifestyle in the long run, but it also takes a huge mental toll on the people who are affected.

Current law allows an individual whose conviction is reversed, and who meets certain requirements, to submit a claim to the Board seeking compensation from the state for their improper imprisonment. If the Board approves the exonerated person’s claim, they are entitled to compensation of up to \$140 per day of their incarceration. The Board has approved compensation claims for 68 individuals in California since 2000. The Board observed an increase in claims it received and granted in the past few years, potentially due to recent changes in law that made it easier to obtain compensation for certain claims.

This bill would also require the Board, after it approves an exonerated person’s claim for compensation, to reimburse claims the exonerated person submits for mental health services “reasonably related to” their incarceration. As described above, the bill gives some guidance about the duration for which the Board must reimburse an individual’s mental health services costs – if someone was incarcerated for eight years or more, they are entitled to at least two years of mental health services reimbursement, and the Board cannot provide mental health reimbursement for longer than a claimant was incarcerated.

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. Erroneous Conviction Compensation

Existing law allows a person who has been wrongfully convicted of a felony and imprisoned to file a claim against the state with the CalVCB for compensation at a rate of \$140 per day of imprisonment. (Pen. Code, §§ 4900, 4904.) If a claimant has first obtained a declaration of factual innocence from a court, CalVCB is required to recommend to the Legislature to make a payment to the claimant within 30 days of the claim.

For claimants who have not obtained a declaration of factual innocence, if a state or federal court grants a writ of habeas corpus or if a state court grants a motion to vacate based on newly discovered evidence, as specified, and as a result of either or those actions the charges are dismissed or the person is acquitted of the charges on a retrial, the person is also entitled to payment on their claim without a separate hearing, unless the Attorney General (AG) objects in writing within 45 days of the filing of the claim for compensation. (Pen. Code, § 4902.) CalVCB would then be required to hold a hearing where the AG has the burden of proving by clear and convincing evidence that the claimant committed the acts constituting the offense. If the AG fails to meet this burden, CalVCB shall recommend to the Legislature payment of the compensation sum. (Pen. Code, § 4903.)

This bill requires the board, upon appropriation by the Legislature for this purpose, to reimburse an exonerated person, or provide direct payment to their provider, for mental health services reasonably related to their incarceration. This amount is to be in addition to any amount contained in an approved claim for erroneous conviction compensation.

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. Additionally, this bill provides that for persons who have been incarcerated for 8 or more years, the board shall allocate, in addition to the amount contained in an approved claim, \$15,000 per year of incarceration with a maximum of 4 or years depending on the total time incarcerated to be used for mental health services.

4. Argument in Support

According to Exonerated Nation, the sponsor of this bill:

Exonerated citizens, like other formerly incarcerated individuals, experience immediate and long-term impacts of incarceration and are at increased risk of adverse mental health outcomes. However, research on the unique burdens of wrongful imprisonment identify numerous mental health and associated

challenges, including posttraumatic stress disorder (PTSD), depression and anxiety, fractured relationships with families, the stigma of prison, and overall challenges of reintegration and adjustment to a new life after years of loss.

Added to this burden is growing evidence that suggests the mental health outcomes of exonerees often resemble the devastating trauma experienced by military veterans and torture survivors. These parallels highlight the severe psychological and neurological effects of wrongful conviction coupled with long-term imprisonment. Findings from a 2020 qualitative study among twelve California exonerees, revealed a multitude of mental health challenges experienced by respondents, including, depression, anxiety, hypervigilance, and chronic trauma . In a 2021 study exploring coping mechanisms among 60 exonerees, results found that 66% of participants did not have a mental health provider and over half described their mental health status as poor or fair. Lastly, in a recent study on symptoms of anxiety, depression, posttraumatic stress disorder (PTSD), and sleep problems among exonerees (n=13), results found 50% reported clinically significant levels of depression, anxiety, and PTSD symptoms.

These findings support the critical need for access to mental health services. AB 997 would provide much needed relief for exonerees.

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