COMMITTEE REPORT

March 6, 2012

**S. 1037**

Introduced by Senator Anderson

S. Printed 3/6/12--S.

Read the first time January 10, 2012.

**THE COMMITTEE ON CORRECTIONS AND PENOLOGY**

To whom was referred a Bill (S. 1037) to amend the Code of Laws of South Carolina, 1976, by adding Article 22 to Chapter 13, Title 24 so as to provide that certain persons who have been wrongfully, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 13, Title 24 of the 1976 Code is amended by adding:

“Article 22

Compensation for a Wrongful Conviction

Section 24‑13‑2310. (A) The court shall award to a person who has been wrongfully convicted of an offense an amount equal to fifteen thousand dollars for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting trial. However, the compensation shall not exceed fifty thousand dollars. The court shall give written notice of its decision to all parties concerned, and the State Treasurer.

(B) The State Treasurer shall pay the amount of the award to the person out of funds appropriated by the General Assembly for this purpose.

(C) If a person is wrongfully convicted by the State of an offense and imprisoned subsequent to the wrongful conviction, and the conviction is reversed or vacated and a final judgment has been rendered, then the person is not eligible for compensation pursuant to this section if the person:

(1) was convicted of any of the acts charged in conjunction with the offense;

(2) served the term of imprisonment concurrently with the sentence for the conviction of another crime; or

(3) is serving a term of imprisonment for the conviction of another crime.

(D) A person awarded compensation pursuant to this section and who is subsequently convicted of a crime is not eligible to receive any unpaid amounts from any compensation authorized by this section.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

MICHAEL L. FAIR for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 22 TO CHAPTER 13, TITLE 24 SO AS TO PROVIDE THAT CERTAIN PERSONS WHO HAVE BEEN WRONGFULLY CONVICTED OF AND IMPRISONED FOR A CRIME MAY RECOVER THE MONETARY VALUE OF THE LOSS SUSTAINED THROUGH THE WRONGFUL CONVICTION AND IMPRISONMENT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 24 of the 1976 Code is amended by adding:

“Article 22

Section 24‑13‑2310. (A) If a person is wrongfully convicted by the State of an offense and imprisoned subsequent to the wrongful conviction, and the conviction is reversed or vacated and a final judgment has been rendered, then the person may petition the court of general sessions to recover the monetary value of the loss the person sustained through the wrongful conviction and imprisonment.

(B) A person is not eligible for compensation pursuant to this section if the person:

(1) pled guilty to the offense, or to any lesser included offense, unless the guilty plea was withdrawn, vacated, or nullified;

(2) was convicted of any of the acts charged in conjunction with the offense;

(3) served the term of imprisonment concurrently with the sentence for the conviction of another crime; or

(4) is serving a term of imprisonment for the conviction of another crime.

(C) The petition must be filed within two years from the date on which the conviction was reversed or vacated. Persons convicted, imprisoned, and released from custody before the effective date of this act must file the petition for compensation within two years from the effective date of this act. The petition must include a statement of the facts upon which the claim is based and may be supported by affidavits that support the claim.

(D) The court, within thirty days of receiving the petition, shall set a time for a hearing and shall mail notice of this date to the claimant and the prosecutor’s office under whose jurisdiction the person was prosecuted.

(E) At the hearing, the claimant may introduce DNA or other evidence in the form of affidavits or testimony to support the claim, and the prosecutor’s office under whose jurisdiction the person was prosecuted may introduce counter affidavits or testimony in refutation.

(F) If the court finds by clear and convincing evidence that the claimant’s conviction was reversed or vacated and a final judgment has been rendered that the claimant was innocent, and that the claimant was imprisoned in connection with the alleged offense, the court shall award to the claimant an amount equal to fifteen thousand dollars for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting trial. However, the compensation shall not exceed fifty thousand dollars. The court shall give written notice of its decision to all parties concerned.

(G) The determination of the court is subject to judicial review upon appeal of the claimant or the State to the South Carolina Court of Appeals.

(H) The State Treasurer shall pay the amount of the award to the claimant out of funds appropriated by the General Assembly for this purpose.

(I) A person awarded compensation pursuant to this section and who is subsequently convicted of a crime is not be eligible to receive any unpaid amounts from any compensation authorized by this section.”

SECTION 2. This act takes effect upon approval by the Governor

‑‑‑‑XX‑‑‑‑