
OLR Bill Analysis

sHB 7251

AN ACT CONCERNING THE RESOLUTION OF CLAIMS FOR WRONGFUL INCARCERATION BY THE CLAIMS COMMISSIONER AND OWNER LIABILITY FOR LAND AVAILABLE FOR RECREATIONAL USE.

SUMMARY

This bill establishes a process by which a wrongful incarceration claimant and the attorney general may agree or stipulate to facts and a compensation award that is presented to the claims commissioner. The bill requires the commissioner to then determine if the facts show that the claimant is eligible for compensation.

And, under the bill, if the claims commissioner finds in the affirmative, he must approve the agreement or stipulation and order immediate payment of the amount in it. The bill exempts these agreed or stipulated to compensation awards that the commissioner approves from being submitted to the General Assembly for review if the required expenditure from the General Fund is \$1.5 million or less (see BACKGROUND).

By law, a claimant must present evidence of eligibility for a claim. The bill eliminates a requirement that a claimant present information about his or her age, income, vocational training, and education level at the time of conviction and permits, rather than requires, the claimant to present the following: evidence of familial relationship loss; reputation damage; the severity of the crime for which the claimant was convicted, and whether a death sentence was involved; whether he or she had to register as a sex offender and for how long; and any other damages related to the arrest, prosecution, conviction, and incarceration. By law, the commissioner may change an award by 25% based on an assessment of relevant favors, which includes this presented evidence.

Lastly, the bill explicitly limits the liability of the state for making

certain types of land available to the public without charge for recreational purposes (see BACKGROUND). Examples of recreational purposes generally include hunting, fishing, swimming, boating, camping, hiking, and bicycling. The law already limits the liability of municipalities that do this, but their limitation does not apply to (1) swimming pools, playing fields or courts, playgrounds, buildings with electrical service, or machinery attached to the land, if they are in the municipality's possession and control and (2) paved public through roads that are open to the public for the use of certain vehicles.

EFFECTIVE DATE: July 1, 2025, except the change to the recreational land use law is effective October 1, 2025.

WRONGFUL INCARCERATION AGREEMENTS OR STIPULATIONS

The bill allows the attorney general, when representing the state's interests in a wrongful incarceration action, to ask for assistance from any employee of the chief state's attorney's office to determine facts relating to the:

1. claimant's criminal prosecution;
2. conviction that resulted in imprisoning the claimant;
3. subsequent conviction vacating or reversal; and
4. complaint or information dismissal based on innocence, malfeasance, or serious misconduct grounds.

Under the bill, the attorney general and the claimant may agree or stipulate to facts and a compensation award that is then presented to the claims commissioner. The commissioner must (1) determine if those agreed or stipulated to facts show the claimant is eligible for an award and (2) if so, approve the agreement or stipulation and order immediate compensation payment to the claimant in the amount in the agreement or stipulation.

BACKGROUND

Landowner Recreational Land Immunity

By law, a landowner who makes land available to the public for recreational purposes without charging admission generally owes no duty of care to (1) keep the land safe for recreational purposes or (2) give any warning of a dangerous condition, use, structure, or activity on the land to those entering for recreational purposes (CGS § 52-557g).

Additionally, the law provides that in doing so these landowners do not (1) make any representation that the land is safe for any purpose, (2) confer on the person using the land a legal status entitling them to a duty of care by the owner, or (3) assume responsibility or incur liability for any injury to a person or property that is caused by the landowner's act or omission.

This statutory immunity from liability does not apply to (1) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) injuries suffered in any case where the landowner charges people who use the land for recreational purposes (CGS § 52-557h).

For purposes of these liability protections, "owner" includes possessors of a fee interest, tenants, lessees, occupants, or persons in control of the premises. A "charge" is the admission price or fee asked in return for an invitation or permission to use the land.

Legislative Review of Other Wrongful Incarceration Compensation

By law, the General Assembly must review a compensation award if the claimant requests a review or the award exceeds \$35,000. The claims commissioner must submit these claims to the General Assembly within five business days of his order or the claimant's request, whichever is sooner. The General Assembly then must review the award and the claim from which it arose within 45 days after receiving it and may (1) deny or confirm the award or (2) remand the claim to the claims commissioner's office for any further proceedings the General Assembly may direct. If it takes no action on an award, the

commissioner's determination is deemed confirmed.

Submissions that occur when the General Assembly is not in a regular session or too close to the end of a regular session for it to be acted on are deemed submitted on the first day of the next regular session.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (04/10/2025)