



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Wrongful Imprisonment

Under Ohio law, a wrongfully imprisoned individual is entitled to receive a sum of money after presenting the requisite proof in court. The amount of compensation that an individual may receive is set within the Ohio Revised Code. Under certain circumstances, wrongfully imprisoned individuals may have to reimburse the state or have money deducted from their compensation.

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### Definition of wrongfully imprisoned individual

Ohio law designates a “**wrongfully imprisoned individual**” as an individual who satisfies each of the following:<sup>1</sup>

1. The individual was charged with a violation of a section of the Revised Code by an indictment or information, and the violation charged was an aggravated felony, felony, or misdemeanor.
2. The individual was found guilty of, but did not plead guilty to, the particular charge or a lesser-included offense by the court or jury, and the offense of which the individual was found guilty was an aggravated felony, felony, or misdemeanor.
3. The individual was sentenced to an indefinite or definite term of imprisonment in a state correctional institution for the offense.

<sup>1</sup> R.C. 2743.48(A).

4. The individual's conviction record was vacated, dismissed, or reversed on appeal and all of the following apply:
  - No criminal proceeding is pending against the individual for any act associated with that conviction.
  - The prosecuting attorney in the case, within one year after the vacating, dismissal, or reversal, has not sought any further appeal of right or upon leave of court.
  - The prosecuting attorney, city director of law, village solicitor, or other chief legal officer of a municipal corporation, within one year after the vacating, dismissal, or reversal, has not brought a criminal proceeding against the individual for any act associated with that conviction.
5. One of the following applies:
  - After sentencing or during or after imprisonment, an error in procedure was discovered that occurred prior to, during, or after sentencing, that involved a violation of the "Brady Rule,"<sup>2</sup> which violated the individual's constitutional rights to a fair trial, and that resulted in the individual's release.
  - It was determined by the court of common pleas in the county where the underlying criminal action was initiated either that the offense of which the individual was found guilty, including all lesser-included offenses, was not committed by the individual or that no offense was committed by any person.

## **Declaring to be a wrongfully imprisoned individual**

A person may file a civil action to be declared a wrongfully imprisoned individual in the court of common pleas in the county where the underlying criminal action was initiated.<sup>3</sup> When the common pleas court determines that a person was wrongfully imprisoned, the court will provide the person with a copy of the wrongful imprisonment statute and orally inform the person and their attorney of the person's rights under the statute to commence a civil action against the state in the Court of Claims because of the person's wrongful imprisonment. The person may choose to be represented in the action by counsel of the person's choice.<sup>4</sup>

## **Notice of determination and payment request**

A common pleas court that determines a person to be a wrongfully imprisoned individual must notify the clerk of the Court of Claims, in writing and within seven days after the entry of the determination, of the person's name and proposed mailing address and of the fact that the person has the rights to commence a civil action and to have legal representation. Within 60 days after entry of the determination by the common pleas court, the clerk must forward a preliminary

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<sup>2</sup> The "Brady Rule" refers to the rule established by the U.S. Supreme Court in *Brady v. Maryland* (1963), 373 U.S. 83, requiring prosecutors to disclose to the defense any evidence in the government's possession that is favorable to the defense and material to the defendant's guilt or punishment.

<sup>3</sup> R.C. 2743.48(B)(1).

<sup>4</sup> R.C. 2743.48(B)(2).

judgment to the President of the Controlling Board requesting payment of 50% of the compensation owed to the wrongfully imprisoned individual.<sup>5</sup> Payments are financed via transfers by the Controlling Board from the state Emergency Purposes/Contingency Fund.

If an individual was serving concurrent sentences on other convictions that were not vacated, dismissed, or reversed on appeal at the time of the wrongful imprisonment, the individual is not eligible for compensation for any portion of the wrongful imprisonment that occurred during a concurrent sentence of that nature.<sup>6</sup>

## Recovering money for wrongful imprisonment

The Court of Claims has exclusive, original jurisdiction over civil actions against the state to recover a sum of money because of an individual's wrongful imprisonment. In such an action, a complainant may establish that they are a wrongfully imprisoned individual by submitting to the Court of Claims a certified copy of the judgment entry of the common pleas court associated with the claimant's conviction and sentencing, and a certified copy of the entry of determination of the common pleas court that the complainant is a wrongfully imprisoned individual. No other evidence is required to establish that the complainant is a wrongfully imprisoned individual, and the complainant will be irrebuttably presumed to be a wrongfully imprisoned individual.<sup>7</sup>

A wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts after presenting the requisite proof to the Court of Claims:<sup>8</sup>

- The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses the individual incurred in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining the individual's discharge from confinement in the state correctional institution;
- For each full year of imprisonment in the state correctional institution for the offense of which the individual was found guilty, \$64,186.92 (this amount is for 2023 and 2024, and is adjusted biennially for inflation by the Auditor of State), and for each part of a year being so imprisoned, a pro-rated share of that amount. (The initial amount, for 2003 and 2004, is established in statute as \$40,330.<sup>9</sup> Please see Table 2 at the end of this *Members Brief* detailing the adjusted amounts since 2004.)
- Any loss of wages, salary, or other earned income that directly resulted from the individual's arrest, prosecution, conviction, and wrongful imprisonment;
- The amount of the following cost debts the Department of Rehabilitation and Correction recovered from the individual who was in custody of the Department or under the Department's supervision:

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<sup>5</sup> R.C. 2743.48(B)(3) and (4).

<sup>6</sup> R.C. 2743.48(B)(5).

<sup>7</sup> R.C. 2743.48(D) and (E)(1).

<sup>8</sup> R.C. 2743.48(E)(2).

<sup>9</sup> R.C. 2743.48(E)(2)(b) and 2743.49.

- Any user fee or copayment for services at a detention facility, such as fees or copayments for sick call visits;
- The cost of housing and feeding the individual in a detention facility;
- The cost of supervision of the individual;
- The cost of any ancillary services provided to the individual.

If the Court of Claims determines in the civil action that the complainant is a wrongfully imprisoned individual, it must enter judgment for the individual in the amount of the sum of money described above. When determining the sum, the Court of Claims is prohibited from considering any expenses incurred by the state or any political subdivision in connection with the individual's arrest, prosecution, and imprisonment, such as expenses for food, clothing, shelter, and medical services. The court must reduce the sum by the amount of the preliminary judgment received by the individual. If the individual was represented by counsel of the individual's choice, the court must include an award for the reasonable attorney's fees of that counsel within the judgment entry.<sup>10</sup>

## **Deductions and state reimbursement**

When awarding the sum of money, the Court of Claims, in the judgment entry making the award, must deduct any known debts owed by the individual to the state or a political subdivision, and must include in the judgment entry an award to the state or subdivision of the deducted amount. The deducted amounts are paid to the state or subdivision as part of the judgment.<sup>11</sup>

The Court of Claims also must deduct certain "qualifying monetary award or recovery" amounts the wrongfully imprisoned individual had previously won or received, if the award arose from conduct that resulted in or contributed to the person being determined a wrongfully imprisoned individual. A "qualifying monetary award or recovery" is a monetary award won in, or a monetary recovery received through a settlement in, a civil action under 42 U.S.C. § 1983<sup>12</sup>, which is the federal law permitting legal action against the states and local governments for "deprivation of any rights, privileges, or immunities secured by the Constitution and laws."

Table 1, below, lists the number of judgments for wrongfully convicted individuals and the amounts disbursed as awards for each year from 2015 to 2024.

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<sup>10</sup> R.C. 2743.48(F)(1) and (2).

<sup>11</sup> R.C. 2743.48(F)(3).

<sup>12</sup> R.C. 2743.48(F)(4).

**Table 1. Wrongful Imprisonment Settlement Disbursements, CY 2015-CY 2024**

Calendar Year	Number of Judgments	Total Disbursed
2015	6	\$3,152,229
2016	5	\$7,376,825
2017	2	\$4,129,947
2018	1	\$114,000
2019	4	\$1,980,821
2020	3	\$3,981,652
2021	9	\$5,969,369
2022	6	\$7,640,244
2023	8	\$8,312,250
2024*	5	\$3,481,246

\*As of November 7, 2024

**Table 2. Auditor of State Adjustments to Wrongful Imprisonment Compensation<sup>13</sup>**

Amount	Two-year range
\$40,330.00	2003-2004
\$41,418.91	2005-2006
\$44,203.56	2007-2008
\$47,209.40	2009-2010
\$47,823.12	2011-2012
\$50,344.75	2013-2014
\$51,901.58	2015-2016

<sup>13</sup> R.C. 2743.48(E)(2)(b) and 2743.49 and [Wrongful Imprisonment Claims](#), Ohio Court of Claims, which is available on the Court of Claims website, [ohiocourtofclaims.gov](http://ohiocourtofclaims.gov), by clicking “Wrongful Imprisonment Claims” under the “Claims vs the State” tab.

<b>Amount</b>	<b>Two-year range</b>
\$52,625.18	2017-2018
\$55,045.94	2019-2020
\$56,752.36	2021-2022
\$64,186.92	2023-2024