HOUSE DOCKET, NO. 3817 FILED ON: 1/20/2023

HOUSE . . . . . No. 3957

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act for fair compensation for erroneous felony conviction.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Russell E. Holmes	*6th Suffolk*	*1/20/2023*

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HOUSE . . . . . No. 3957

By Representative Holmes of Boston, a petition (accompanied by bill, House, No. 3957) of Russell E. Holmes relative to compensation for erroneous felony convictions. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act for fair compensation for erroneous felony conviction.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The general court hereby finds and declares that the provisions of this act will elevate the standard of accountability principally against the commonwealth, for an erroneous conviction resulting in incarceration.

SECTION 2. Section 5 of chapter 258D of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsection (A) and inserting in place thereof the following subsection:-

(A) Upon a finding or verdict that the claimant has met the requirements of section 1 by the requisite standard of proof and is not barred from compensation by section 2, the court or the jury shall determine the damages that shall be payable to the claimant. In making such determination, the court or jury shall consider, but not be limited to, the consideration of: the income the claimant would have earned, but for his incarceration; the particular circumstances of the claimant's trial and other proceedings; the length and conditions under which the claimant

was incarcerated and; any other factors deemed appropriate under the circumstances in order to fairly and reasonably compensate the claimant. The court, in its discretion, may admit expert testimony on these or any factors. The court may include, as part of its judgment against the commonwealth, an order requiring the commonwealth to provide the claimant with services that are reasonable and necessary to address any deficiencies in the individual's physical and emotional condition and waive tuition and fees for the claimant for any educational services from a state or community college in the commonwealth including, but not limited to, the University of Massachusetts at Amherst and its satellite campuses. Once the damages have been determined, the court shall enter a judgment against the commonwealth for the claimant in an amount certain, payable in either a lump sum or in annuity installment payments set by the court; provided, however, that any such annuity installment payments shall have fixed limits on their annual amount and on the time period which they shall be paid to the claimant. A judgment against the commonwealth may not include punitive or exemplary damages. The total liability of the commonwealth for any judgment entered under this chapter shall be a minimum of $800,000. Notwithstanding any general or special law to the contrary, the clerk of court shall not add to the judgment and the commonwealth shall not be liable for paying, any prejudgment or post judgment interest on damages. Subject to section 4, relative to award or settlements, the rights and remedies afforded to certain individuals by this chapter are not intended to limit in any way any rights or remedies that such individuals or other individuals may be entitled to exercise and pursue under chapter 258.