

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:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/20/2023</i>

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:

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

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

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

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