

Amending Florida's Victims of Wrongful Incarceration Compensation Act

Background

- Nationally, 34 states and the federal government have an exoneree compensation law. Florida's law is viewed as one of the most restrictive.
- Those who have been exonerated of wrongful convictions have been imprisoned. This means they often lose years of their lives and were deprived of financial opportunities.
- By being incarcerated, wrongfully convicted individuals do not have the ability to build careers, obtain financial assets, and/or save for retirement.

Restrictions of Current Law

- Florida has the only exoneree compensation law in the country that bars eligibility if the person was previously convicted of more than one felony, or just one violent felony.
- Current law requires the individual to apply for compensation within 90 days of the days that the court order vacates the conviction and sentence. The law demands proof of actual innocence and does not take into account retrial of a case.
- The law bars civil litigation for exonerees who apply for state compensation.

Benefits of Changing the Law

- Replacing the bar on civil litigation with an offset provision would allow for the state to recover money.
- Removing the clean hands provision would avoid putting exonerated individuals through financial hardship due to unrelated convictions with sentences already resolved.
- Creating a reasonable deadline to file compensation claims would account for the possibility of the person being retried and later found not guilty.
- Access to compensation for exonerated Floridians would assist individuals in recovering from financial disadvantages and obstacles due to the deprivation of financial opportunities during the time imprisoned.

Example of Issues with Current Law

- Clemente Aguirre-Jarquin was imprisoned for 14 years and a decade on death row. The Supreme Court of Florida vacated the conviction and death sentence and ordered a new trial based on a new confession by the actual perpetrator. The state's attorney immediately decided to retry the case. Two years later, the prosecution dismissed the charges and Aguirre-Jaquin applied for state compensation. The claim was denied because of the 90-day application requirement.

Amending Florida's Law to Require the Recording of Interrogations

Background Facts

- As of 2019, 24 states and all federal law enforcement agencies require the recording of suspect interrogations.
- At least 56 Florida law enforcement agencies have chosen to record interrogations. These agencies include Miami-Dade County, Fort Lauderdale, and Palm Beach County Sheriff's Office.
- There is no statewide practice or law regarding recording interrogations to maintain consistency.
- Florida law requires recording interrogations for police officers suspected of misconduct but not ordinary citizens.

Effect of the lack of Statewide Practice

- In Florida, there have been 6 innocent people who have been wrongfully convicted due to false confessions since 1989 that we know of. These 6 wrongful convictions have costed Florida taxpayers more than \$36 million in civil payouts.
- Between 1990 and 2001 in Broward County, at least 38 false or questionable murder confessions that were thrown out by the court, rejected by juries, or abandoned by prosecutors. Broward now records custodial interrogations.
- In the trial of the Pulse shooter's widow, the foreman of the jury stated that they wished "that the FBI had recorded their interviews with Ms. Salman [the defendant] as there were several significant inconsistencies with the written summaries of her statements [from the interviews]."

Reasons to Pass a Statewide Practice

- Recording interrogations protects the defendants' rights and law enforcements credibility.
- Recording interrogations can deter illegal or coercive techniques that lead to false confessions.
- Recording interrogations can remove doubt about the voluntariness of a statement, reduce motions to suppress those statements, and allow for officers to have an accurate record of what occurred during an interrogation.