

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 5, 2008  
POSITION: Oppose

BILL NUMBER: AB 2937  
AUTHOR: J. Solorio

**BILL SUMMARY: Wrongful Convictions**

This bill provides specified rights to individuals wrongfully convicted and determined factually innocent. Specifically, this bill requires the county to provide case management services for two years to assist with reintegration into society and increases the amount of compensation provided per year of incarceration due to erroneous conviction to be consistent with reimbursement provided for federal imprisonment.

**FISCAL SUMMARY**

The California Department of Corrections and Rehabilitation (CDCR) was unable to estimate the number of individuals who would be subject to the requirements of this measure. Making case management services available, upon request, to individuals in this situation would result in increased local government costs unless the individual is otherwise eligible for a county program. Depending on the specified needs of the person and the existing case management structure of each local agency, this bill could require each county to dedicate a case manager to provide this service. Statewide costs are likely to be similar to CDCR's estimate on a prior version of this bill of \$250,000 to \$500,000 General Fund annually. These costs could be determined to be reimbursable, state-mandated local government costs.

Over a six year history, the Victim Compensation and Government Claims Board (VCGCB) approved erroneous conviction claims averaging \$572,000 General Fund each year. This bill would increase the reimbursement amount from the current \$36,500 per year to \$50,000, an increase of 37 percent. This would likely increase VCGCB's claims by \$212,000 General Fund annually. The effect of increasing erroneous death row conviction reimbursements to \$100,000 per year is unknown because the VCGCB has never heard one of these cases.

**SUMMARY OF CHANGES**

Amendments to this bill since our analysis of the April 3, 2008 version do not alter our position. Specifically, these amendments would require county board of supervisors to designate an agency to provide case management services instead of the CDCR. In addition, this bill provides that a finding that a person is factually innocent is admissible as evidence to the VCGCB.

**COMMENTS**

The Department of Finance is opposed to this bill because it could result in a reimbursable state-mandate and would increase General Fund costs by approximately \$462,000 to \$712,000 per year.

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Analyst/Principal (0241) K. Shelton	Date	Program Budget Manager Todd Jerue	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

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**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

J. Solorio

June 5, 2008

AB 2937

Existing law:

- Allows a plaintiff to take action against an attorney for a wrongful act or omission that results in conviction within one year of discovery. This bill would extend the time frame to two years.
- Authorizes individuals to petition a law enforcement agency or court for a finding of factual innocence and request that the records related to that arrest and/or conviction be destroyed.
- Specifies that a finding that an arrestee, if factually innocent, is inadmissible in any action.
- Provides restitution for wrongful convictions, as specified.

This bill would:

- Specify a finding that a person is factually innocent is admissible as evidence to the VCGCB.
- Require each county board of supervisors to designate an agency by April 1, 2009 to assist individuals who have been wrongfully incarcerated with reintegration into society.
- Specify that the county agency may be a social services department, health department, or a qualified non-profit organization and may not be a probation department or law enforcement agency.
- Require that, upon request, a county shall provide case management services, including but not limited to housing, psychological counseling, medical services, and vocational training.
- Require the county to develop a reentry plan for these individuals, as specified, and assist them for at least two years.
- Require a judge to order a record sealed in the case of a wrongful conviction, as specified.
- Increase the annual reimbursement rate for an erroneous death row conviction from \$50,000 to \$100,000.

The proposal to change the requirement that a VCGCB claimant “not intentionally or negligently contribute to his or her arrest or conviction” to “through his or her own misconduct, voluntarily subvert the judicial process” is ambiguous and unnecessary. The VCGCB has stated that they are unsure how this language should be interpreted when hearing erroneous conviction cases. The author’s office noted that the intent was to provide those coerced into admitting guilt an avenue for reimbursement through VCGCB. We would note that this is likely unnecessary because the VCGCB recently approved a claim in a case where an innocent claimant had plea bargained for a reduced sentence because he did not want to take the risk of being found guilty at trial. Evidence that found him to be innocent surfaced after he had served a year in prison.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP								
	RV	98	FC	2008-2009	FC	2009-2010	FC	2010-2011		
1870/VicCompGovCl	SO	No	C	\$212	C	\$212	C	\$212	0001	
9210/LocGovtFin	SO	No	C	\$250 - 500	C	\$250 - 500	C	\$250 - 500	0001	