

West's Vermont Statutes Annotated
Title Thirteen. Crimes and Criminal Procedure (Refs & Annos)
Part 3. Proceedings Before Trial (Refs & Annos)
Chapter 182. Innocence Protection
Subchapter 2. Compensation for Wrongful Convictions

13 V.S.A. § 5572

§ 5572. Right of action; procedure

Currentness

- (a) A person convicted and imprisoned for a crime of which the person was exonerated pursuant to subchapter 1 of this chapter shall have a cause of action for damages against the state.
- (b) An action brought under this subchapter shall be filed in Washington County superior court. Notice of the action shall be served upon the attorney general.
- (c) The Vermont Rules of Civil Procedure shall apply to actions brought under this subchapter, and the plaintiff shall have a right to trial by jury. The Vermont Rules of Appellate Procedure shall apply to appeals from orders and judgments issued under this subchapter.
- (d) The attorney general may consider, adjust, determine, and settle any claim for damages brought against the state of Vermont under this subchapter.

Credits

2007, No. 60, § 1, eff. July 1, 2007.

13 V.S.A. § 5572, VT ST T. 13 § 5572

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13 V.S.A. § 5573

§ 5573. Complaint

Currentness

(a) A complaint filed under this subchapter shall be supported by facts and shall allege that:

(1) the complainant has been convicted of a felony crime, been sentenced to a term of imprisonment, and served at least six months of the sentence in a correctional facility; and

(2) the complainant was exonerated through the complainant's conviction being reversed or vacated, the information or indictment being dismissed, the complainant being acquitted after a second or subsequent trial, or the granting of a pardon.

(b) The court may dismiss the complaint, upon its own motion or upon motion of the State, if it determines that the complaint does not state a claim for which relief may be granted.

Credits

2007, No. 60, § 1, eff. July 1, 2007; 2013, Adj. Sess., No. 126, § 4, eff. July 1, 2014.

13 V.S.A. § 5573, VT ST T. 13 § 5573

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13 V.S.A. § 5574

§ 5574. Burden of proof; judgment; damages

Currentness

(a) A claimant shall be entitled to judgment in an action under this subchapter if the claimant establishes each of the following by clear and convincing evidence:

(1) The complainant was convicted of a felony crime, was sentenced to a term of imprisonment, and served at least six months of the sentence in a correctional facility.

(2)(A) The complainant's conviction was reversed or vacated, the complainant's information or indictment was dismissed, or the complainant was acquitted after a second or subsequent trial.

(B) The complainant was pardoned for the crime for which he or she was sentenced.

(3) The complainant is actually innocent of the felony or felonies that are the basis for the claim. As used in this chapter, a person is "actually innocent" of a felony or felonies if he or she did not engage in any illegal conduct alleged in the charging documents for which he or she was charged, convicted, and imprisoned.

(4) The complainant did not fabricate evidence or commit or suborn perjury during any proceedings related to the crime with which he or she was charged.

(b) A claimant awarded judgment in an action under this subchapter shall be entitled to damages in an amount to be determined by the trier of fact for each year the claimant was incarcerated, provided that the amount of damages shall not be less than \$30,000.00 nor greater than \$60,000.00 for each year the claimant was incarcerated, adjusted proportionally for partial years served. The damage award may also include:

(1) Economic damages, including lost wages and costs incurred by the claimant for his or her criminal defense and for efforts to prove his or her innocence.

(2) Up to 10 years of eligibility for state-funded health coverage equivalent to Medicaid services.

(3) Compensation for any reasonable reintegrative services and mental and physical health care costs incurred by the claimant for the time period between his or her release from mistaken incarceration and the date of the award.

(4) Reasonable attorney's fees and costs for the action brought under this subchapter.

(c) Damages awarded under this section:

(1) shall not be subject to any State taxes, except for the portion of the judgment awarded as attorney's fees; and

(2) shall not be offset by any services awarded to the claimant pursuant to this section or by any expenses incurred by the State or any political subdivision of the State, including expenses incurred to secure or maintain the claimant's custody or to feed, clothe, or provide medical services for the claimant.

(d) The claimant's acceptance of a damages award, compromise, or settlement as a result of a claim under this subchapter shall be in writing and, except when procured by fraud, shall be final and conclusive on the claimant, and constitute a complete release by the claimant of any claim against the State and a complete bar to any action by the claimant against the State with respect to the same subject matter.

(e) A claimant shall be entitled to compensation under this subchapter only for the years in which he or she would not otherwise have been incarcerated for another sentence.

Credits

2007, No. 60, § 1, eff. July 1, 2007; 2013, No. 79, § 16, eff. Jan. 1, 2014; 2013, Adj. Sess., No. 126, § 5, eff. July 1, 2014.

§ 5574. Burden of proof; judgment; damages, VT ST T. 13 § 5574

13 V.S.A. § 5574, VT ST T. 13 § 5574

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13 V.S.A. § 5575

§ 5575. Payment

Currentness

(a) Any award made or compromise or settlement against the state of Vermont agreed upon by the attorney general in response to an action brought under this subchapter shall be paid by the state treasurer out of the treasury, and the emergency board shall reimburse the state treasurer therefor from time to time.

(b) If the state elects to self-insure for liability as defined in section 5601 of Title 12, any award, compromise, or settlement against the state of Vermont agreed to by the attorney general shall be paid by the treasurer from the liability self-insurance fund.

(c) To the extent that an award, settlement, or compromise is covered by a policy of liability insurance, payment will be governed by the terms of the policy.

Credits

2007, No. 60, § 1, eff. July 1, 2007.

13 V.S.A. § 5575, VT ST T. 13 § 5575

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13 V.S.A. § 5576

§ 5576. Limitations

Currentness

(a) Except as provided in subsection (b) of this section, an action for compensation under this subchapter shall be commenced within three years after the person is exonerated pursuant to subchapter 1 of this chapter through the person's conviction being reversed or vacated, the information or indictment being dismissed, the person being acquitted after a second or subsequent trial, or through the granting of a pardon.

(b)(1) If the state challenges the exoneration of a person entitled to bring an action under this subchapter, the limitations period shall not commence until the challenge is finally resolved.

(2) If a person entitled to bring an action under this subchapter is not provided the notice required by section 5577 of this title, the person shall have an additional year within which to bring the action.

Credits

2007, No. 60, § 1, eff. July 1, 2007.

13 V.S.A. § 5576, VT ST T. 13 § 5576

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13 V.S.A. § 5577

§ 5577. Notice of right of action

Currentness

(a) A copy of this subchapter shall be provided to a person by a court:

- (1) exonerating a person pursuant to subchapter 1 of this chapter through vacating or reversing the person's conviction, dismissing the information or indictment, entering judgment on an acquittal after a second or subsequent trial; or
- (2) receiving notice of a pardon.

(b) A person receiving a copy of this subchapter pursuant to subsection (a) of this section shall be required to acknowledge its receipt in writing on a form established by the court administrator. The acknowledgement shall be entered on the docket by the court and shall be admissible in an action filed under this subchapter.

Credits

2007, No. 60, § 1, eff. July 1, 2007.

13 V.S.A. § 5577, VT ST T. 13 § 5577

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