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MEMORANDUM

To: House Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 5, 2024
Subject: Bill Brief on HB 2780

HB 2780 requires persons who file lawsuits for wrongful conviction compensation to prove additional information, changes the compensation rates to daily rates instead of yearly rates and limits housing assistance offered to such persons.

The bill amends K.S.A. 60-5004, the statute that provides a civil right of action for wrongful conviction. A new subsection (b)(2) is added to provide that a person shall not bring an action pursuant to this section if such person's conviction was reversed or vacated based on ineffective assistance of counsel. Current law in subsection (c) requires the claimant to establish that the claimant did not commit the crime or crimes for which the claimant was convicted and was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges or finding of not guilty on retrial. The bill divides this into two separate clauses requiring the claimant to establish that (1) the claimant did not commit the crime or crimes for which the claimant was convicted, causing the conviction to be reversed or vacated or the charges to be dismissed; and (2) the claimant was not an accessory or accomplice to the acts that were the basis of the conviction. A new subparagraph (D) is added to require the claimant to establish the claimant's own conduct, including any action taken by the claimant before, during or after the commission of the acts that served as the basis for the claimant's conviction, did not contribute to, cause or bring about the conviction.

Current law in subsection (e) provides that damages shall be \$65,000 for each year of imprisonment, not less than \$25,000 for each additional year served on parole or postrelease supervision, and an amount not to exceed a total of \$25,000 for attorney fees and costs, unless a greater reasonable total is authorized by the court. This bill would change these amounts to \$180

for each day of imprisonment, \$70 for each additional day served on parole or postrelease supervision, and an amount not to exceed a total of \$100,000 for attorney fees and costs. The bill also adds a provision providing for damages of \$110 for each day spent under a house arrest program. A provision is added limiting compensation for days of imprisonment to days spent in the custody of the secretary of corrections and any time served in jail awaiting post-trial transfer to the department of corrections.

Current law also allows for relief in the form of housing assistance, and this bill limits the time period for which you can receive housing assistance to five years. Subsection (k) is amended to provide a definition of housing assistance, which is monthly payments to a rental facility or financial institution in an amount not to exceed \$2,000, which will be adjusted every five years based on the consumer price index for all urban consumers in the midwest region. Finally, current law provides for relief in the form of counseling, and a definition for that term is added to provide that counseling means services for mental health, career placement, substance abuse, disability rehabilitation and family reunification.