



David M. Gold

Final Analysis
Legislative Service Commission

Sub. H.B. 551

126th General Assembly
(As Passed by the General Assembly)

Reps. Latta, Fende, Setzer, Wolpert, Law, J. McGregor, D. Evans, Seitz, Hughes, Bulp, Yuko, Willamowski, Aslanides, Schaffer, Otterman, Combs, C. Evans, Oelslager, Reidelbach, Webster, Buehrer, T. Patton, Beatty, Brown, Chandler, Collier, Daniels, DeBose, Dolan, Domenick, Flowers, Garrison, Gibbs, Gilb, Hagan, Hartnett, Harwood, Hoops, Koziura, Martin, Mason, R. McGregor, Perry, Reinhard, Seaver, S. Smith, D. Stewart, J. Stewart, Strahorn, Uecker, Ujvagi, Williams, Yates

Sens. Cates, Gardner, Hottinger, Padgett

Effective date: April 5, 2007

ACT SUMMARY

- Prohibits a person from knowingly making a false report that a child has been abducted and that leads to the implementation of the statewide emergency alert program (the "AMBER Alert Program") or a local or regional emergency alert program.
- Changes the formula the Auditor of State is required to use to determine the adjustment to the statutory dollar figure that is specified by law as the general amount of recovery for a wrongfully imprisoned individual, so that the Auditor makes specified calculations based on both years in the preceding two-year period instead of making the calculations only one year in the preceding two-year period.

CONTENT AND OPERATION

False report of child abduction

Background

Continuing law creates the statewide emergency alert program--often referred to as the "AMBER Alert Program"--to aid in the identification and location of minors (children who are under 18 years of age) who are abducted and

whose abduction, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to a child.¹ The program is required to be a coordinated effort among the Governor's office, the Department of Public Safety, the Attorney General, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as deemed necessary by the Governor. (R.C. 5502.52(A).)

The statewide emergency alert program cannot be implemented unless five specified activation criteria are met, including that the local investigating law enforcement agency confirms that an abduction has occurred and that the abductee is a minor. This implementation rule does not prevent, however, the activation of a *local or regional* emergency alert program that may impose different criteria for the activation of the local or regional plan. (R.C. 5502.52(B) and (C).)

Changes made by the act

The act establishes a prohibition against a person knowingly making a false report that a child has been abducted and that leads to the implementation of the statewide emergency alert program or of a local or regional emergency alert program. A person who violates this prohibition is guilty of a felony of the fourth degree. (R.C. 5502.52(E).)

Wrongful imprisonment – adjustment of statutorily specified amount of recovery

Prior law

Recovery, in general, by a wrongfully imprisoned individual. Continuing law authorizes a person who is a "wrongfully imprisoned individual," to commence a civil action against the state in the Court of Claims because of the person's wrongful imprisonment. In such a civil action, upon presentation of requisite proof to the Court, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts: (1) the amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining his or her discharge from confinement in prison, (2) *for each full year of imprisonment in prison for the offense of which the wrongfully imprisoned individual was found guilty, \$40,330 or the adjusted amount determined by the*

¹ As used in this provision, "law enforcement agency" includes, but is not limited to, a county sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the State Highway Patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint township police district (R.C. 5502.52(F)(3)).

Auditor of State pursuant to R.C. 2743.49 (see "Adjustment of amount recoverable for wrongful imprisonment," below), and for each part of a year of being so imprisoned, a pro-rated share of \$40,330 or the adjusted amount determined by the Auditor of State pursuant to R.C. 2743.49, (3) any loss of wages, salary, or other earned income that directly resulted from his or her arrest, prosecution, conviction, and wrongful imprisonment, and (4) the amount of certain specified cost debts the Department of Rehabilitation and Correction recovered from the wrongfully imprisoned individual (R.C. 2743.48(E)(2)--not in the act).

Adjustment of amount recoverable for wrongful imprisonment.

Continuing law specifies that, in January of each odd-numbered year, the Auditor of State, in accordance with the provisions described in this part of the analysis, must adjust the actual \$40,330 figure specified above in "Recovery, in general, by a wrongfully imprisoned individual" or the actual dollar amount determined pursuant to the provisions described in this part of the analysis. The adjustment is required to be based on the yearly average of the previous two years of the Consumer Price Index for all urban consumers or its successive equivalent, as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor in responsibility, for all items, Series A. Under prior law, *using the yearly average for the immediately preceding even-numbered year as the base year*, the Auditor had to compare the most current average consumer price index with that determined in the preceding odd-numbered year and determine the percentage increase or decrease. The Auditor then had to multiply the percentage increase or decrease by the actual \$40,330 figure specified above in "Recovery, in general, by a wrongfully imprisoned individual" or the actual dollar figure determined for the previous odd-numbered year under the provisions described in this part of the analysis and add the product to or subtract the product from its corresponding actual dollar figure, as applicable, for the previous odd-numbered year. The Auditor had to calculate the adjustment on or before January 31 in each odd-numbered year, and base the adjustment on the most current Consumer Price Index that is in effect as of January 1 of each odd-numbered year. The Auditor had to certify the calculations made as described in this paragraph on or before January 31 of each odd-numbered year.

Operation of the act

The act changes the formula the Auditor of State is required to use to determine the adjustment to the statutory dollar figure that is specified by law as the general amount of recovery for a wrongfully imprisoned individual. Under the act, as under prior law, in January of each odd-numbered year, the Auditor, in accordance with the provisions described in this part of the analysis, must adjust the actual \$40,330 figure specified above in "Recovery, in general, by a wrongfully imprisoned individual" or the actual dollar amount determined pursuant to the provisions described in this part of the analysis. Under the act, as

under prior law, the adjustment is required to be based on the yearly average of the previous two years of the Consumer Price Index for all urban consumers or its successive equivalent, as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor in responsibility, for all items, Series A. Under the act (changed from prior law), the Auditor is required to calculate the adjustment in the following manner:

(1) First, using the yearly average for the immediately preceding odd-numbered year as the base year, the Auditor must compare the most current average Consumer Price Index with that determined in the even-numbered year immediately preceding that odd-numbered year and must determine the percentage increase or decrease. The Auditor must multiply the percentage increase or decrease by the actual \$40,330 figure specified above in "**Recovery, in general, by a wrongfully imprisoned individual**" or the actual dollar figure determined for the previous odd-numbered year under the provisions described in this part of the analysis and must add the product to or subtract the product from its corresponding actual dollar figure, as applicable, for the previous odd-numbered year.

(2) Second, using the yearly average for the immediately preceding even-numbered year as the base year, the Auditor must compare the most current average consumer price index with that determined in the odd-numbered year immediately preceding that even-numbered year and must determine the percentage increase or decrease. The Auditor must multiply the percentage increase or decrease by the dollar figure determined under the provisions described in the preceding paragraph for the previous even-numbered year and must add the product to or subtract the product from its corresponding actual dollar figure, as applicable, for the previous odd-numbered year. The resulting figure is the adjusted dollar amount determined under this section, for purposes of the provisions described in this part of the analysis and the provisions described above in "**Recovery, in general, by a wrongfully imprisoned individual**." (R.C. 2743.49.)

HISTORY

| ACTION | DATE |
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| Introduced | 03-28-06 |
| Reported, H. State Gov't | 05-30-06 |
| Passed House (91-0) | 11-14-06 |
| Reported, S. Judiciary--Criminal Justice | 12-13-06 |
| Passed Senate (31-0) | 12-14-06 |
| House concurred in Senate amendments | 12-19-06 |
| 06-hb551-126.doc/kl | |