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Gov. Wolf proposes paying anyone wrongly convicted \$50K for every year spent in prison

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Larry Trent Roberts leaves Dauphin County Prison in 2019 after a jury finds him not guilty of a 2005 Harrisburg homicide for which he'd already served 13 years in prison.

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Tucked into Gov. Tom Wolf's 2021-22 budget plan is a proposal for Pennsylvania to pay people who were wrongly convicted \$50,000 for each year that they were held behind bars.

Under Wolf's plan, the funds would go to exonerees who have had convictions overturned on the grounds that they were innocent of the crime accused. The new program could apply, for example, to inmates who have seen convictions overturned and subsequently had charges dropped, or those who were acquitted in a new trial.

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It's one of several measures Wolf intends to push as part of a larger criminal justice reform effort in his last two years in office. And, for the tiny group of Pennsylvania exonerees, it could be life-changing.

Larry Trent Roberts, a Harrisburg man who was released in 2019 after a second jury found him not guilty of a homicide for which he had already served 13 years in state prisons, said his mind swims with the possibilities of what could happen with that kind of hand up.

He could pay off a lien on his home - caused by his inability to keep up with loan payments after his arrest. He could explore reopening the used car business that he had at the time of his 2005 arrest. He could explore entry into the real estate field.

"I just think that it'd be just a life-changing event right now," Roberts said this week. "It would just help me in life, man. Just putting my life back together. I wouldn't have to worry as much about money and what I'm going to do the next day."

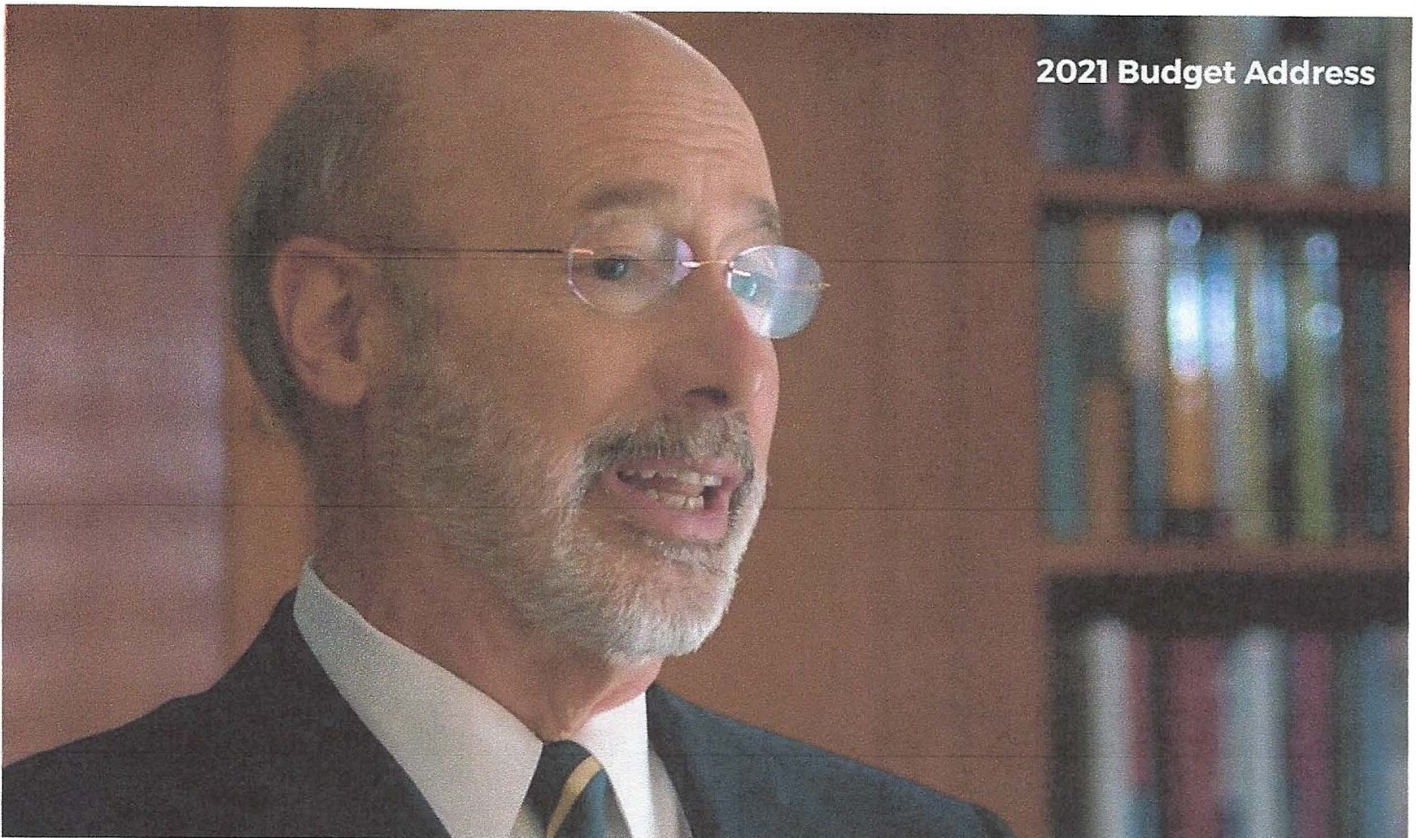
Pennsylvania, it can be argued, is already behind the eight-ball on this issue.

Thirty-five states, and the federal government, currently have some form of base compensation in place for exonerees, including all of our neighboring states except Delaware.

Under the governor's still-emerging proposal, exonerees would be able to go to court to seek an affirmation of their innocence. If successful, they would be made eligible for the payment, as well as access to a variety of re-entry services ranging from counseling and tuition-free education to start-up housing and medical assistance.

To some, struggling through the pandemic recession, this may sound a little bit like someone else hitting the lottery.

But this is no lottery that anyone would want to play.



Pa. Gov. Tom Wolf, in his \$37.8 billion budget proposal, included a plan to pay anyone who was wrongly convicted compensation for time spent in prison. Screenshot from Commonwealth Media Services video

"All the money in the world can't replace time," Roberts said. "As a result of my wrongful conviction, a lot of relationships were severed. I can't bring my grandmom and my great-grandmom back. I would give all the money in the world to get them back, but I can't.

"Until somebody can go in there and have to deal with... waking up every day trying to dust yourself off, trying to keep a smile on your face, trying to stay positive, trying to stay, you know, out of trouble in there and be a model citizen... and then have to just get on the phone and call home and listen to the deaths, listen to how your family is hemorrhaging.

"If they want to go through all that for five or six hundred thousand dollars, man, it's not worth it," Roberts said. "You can have that lottery."

Pennsylvania exonerees get nothing but their freedom back under current law, which, say supporters of the compensation proposal, is actually less than ex-convicts leaving the prison on parole.

It is a pretty small club, though it has grown a lot in the last two years as Philadelphia District Attorney Larry Krasner has made good on the creation of an aggressive Convictions Integrity Unit to re-examine troubled cases on a complaint basis. Krasner's office alone has exonerated 17 men in his first term.

Overall, the Wolf Administration believes there are about 70 people who could qualify for wrongful conviction payments in Pennsylvania: That's 95 exonerees, as counted by the Pennsylvania Innocence Project, minus those who have died or who have already won post-release civil judgments that would exceed the proposed state payment.

Important point, here, though:

While the civil courts can work for some exonerees, they don't work for all.

Philadelphia civil attorney Gerald Williams, who has handled about 12 such cases in his career, noted that exoneree plaintiffs have to prove civil rights violations in federal court, and as long as police or prosecutors can make a credible defense that they were acting in good faith throughout their prosecution, that's impossible to do.

Because sometimes, in fact, these wrongful arrests and convictions are just that - the mistakes of a human-run system.

If there has been provable misconduct, Williams said he has seen cases where the employing agency has terminated the offending employees and refused to extend liability coverage for their actions because they acted outside policy and regulation. That leaves plaintiffs seeking damages from shallow pockets.

Only about 20 of Pennsylvania's exonerees had received civil settlements through 2017. And while the settlements often bring bigger dollar amounts, these lawsuits also often take years to resolve, meaning exonerees aren't getting any financial assistance when they need it the most.

"It's very far from a slam dunk" for the exonerees," Williams said. "That's why these statutes are kind of important."

Still, supporters of state compensation don't want to limit exonerees' ability to sue. That, they argue, is an important way to shine a light on rogue actors in the criminal justice system, and they note that the law can contain an off-set provision requiring a reimbursement of state payments if a larger judgment is paid through the courts.

The Wolf proposal will have to go through the Republican-controlled state legislature.

The good news for Pennsylvania's exonerees is that there has been some momentum in recent sessions for criminal justice reforms, especially those aimed at helping ex-convicts build productive post-sentence lives. Wolf's staffers see the compensation plan as a logical extension of that work.

And, at least as a discussion point, the state's district attorneys association — which wields a lot of clout on crime and punishment issues in Harrisburg — says it is not opposed to the concept.

The DAs want to be sure that the compensatory payments go only to cases where the original conviction has been overturned on the basis of the defendant's innocence, and that finding has won the stamp of approval from an independent arbiter, like a judge.

(A compensation bill sponsored by former Senate Judiciary Committee Chairman Stewart Greenleaf in the 2017-18 session had such claims going to Pennsylvania's Commonwealth Court for review. Greenleaf's bill never was considered by his committee. Freshman Rep. Regina Young, D-Philadelphia, is seeking co-sponsors for a new compensation bill this year.)

"When you're looking at somebody who is truly innocent, that is different than somebody who may have participated in it (the crime), but for whatever reason the conviction was overturned on other grounds," said Greg Rowe, executive director of the Pennsylvania District Attorneys Association.

"We want to avoid that situation and look at the much, much, much, much smaller universe of cases where, again," the facts simply don't support the case.

Supporters of the compensation movement generally agree with that limitation — which is also in most of the state laws in effect around the country — though all sides agree the structure of the affirmative proof of innocence requirement still needs to be worked out in the coming legislation.

Nan Feyler, executive director of the Philadelphia-based Pennsylvania Innocence Project is optimistic about Pennsylvania's ability to play catch-up on the compensation issue in this legislative session.

"We hope we won't run into too much opposition from different legislators or groups because we really think it's a matter of equity and it does resonate with a lot of people I think," Feyler told PennLive this week. "What I think we're up against most is the budget shortfalls. And so the question is when can this happen. Not if."

There's no question in her mind that it is the right thing to do, and she thinks that won't be a tremendously hard sell to most lawmakers.

"I think it's really the state's responsibility. I think it's the equitable and moral and the financially fair thing to do for somebody who's spent decades in prison for something they didn't do, oftentimes because of police misconduct or sometimes for misuse of jailhouse informants or misidentification," Feyler said.

"Most of them have been incarcerated at young ages so they missed all of their earning potential, their career, their paying into Social Security. So they're really disadvantaged, not only emotionally but I think financially, too," she said.

There is a racial justice component to this as well.

Fifty-six percent of the exonerees in Pennsylvania since 1989 are Black, and according to a study by [the National Registry of Exonerations](#), innocent African Americans are about seven times more likely to be convicted than innocent white people.

Roberts, now 50, has seen a lot taken from him since he was arrested in 2005.

He's lost his business, the former Swatara Auto Sales. The woman he was in a relationship with at the time has married another person. He missed 13 years of each of his four kids' lives. Older relatives died.

None of those things will come back.

And now he's trying to get back on his feet during a pandemic.

Living with an aunt, Roberts said he worked a warehouse job through a temp agency for starters, then landed a job with a local car dealership until the pandemic forced all the salesmen to work fully on commission.

"It is like one hurdle to the next," he said. "I'm trying to reinvent myself. I'm trying to find out what I really want to do."

Compensation will never bring back the time or the losses resulting from Roberts' interrupted life.

But it could certainly ease his re-start, he said.

"I could do a lot of things with that money. I could do a lot of positive things with that money. Not just for me, but for other people, because I provided jobs for other people when I had my business. So it wouldn't just help me," Roberts said. "It could help the community."