151st GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**HOUSE BILL NO. 118**
SPONSOR:	**Representative Lynn**
DESCRIPTION:	**AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE DELAWARE WRONGFUL IMPRISONMENT COMPENSATION ACT.**

Assumptions:

1. This Act, known as the Delaware Wrongful Imprisonment Act, becomes effective on July 1, 2023, and upon signature by the Governor.

2. This Act allows a plaintiff, who was convicted and subsequently imprisoned in a Delaware correctional facility for one or more crimes that the individual did not commit, to file a complaint for compensation against the State in Superior Court within three years after the conviction is reversed or vacated. Individuals convicted, imprisoned, and released from custody before July 1, 2023, must file a complaint within 18 months after this Act's effective date.

3. If the Superior Court finds that a plaintiff was wrongfully convicted and imprisoned, compensation is awarded as follows:

    a. $50,000 for each year from the date the plaintiff was imprisoned until the date the plaintiff was released, regardless of whether the plaintiff was released from imprisonment on parole or because the maximum sentence was served;

    b. for incarceration of less than a year, this amount is prorated to 1/365 of $50,000 for every day the plaintiff was incarcerated; and

    c. a plaintiff may be reimbursed for reasonable attorney fees that the plaintiff has paid, not to exceed 10% of the total amount awarded or $50,000, whichever is less, plus expenses.

4. The Superior Court may order that the total amount of compensation be awarded to the plaintiff in a single payment or multiple payments. If the balance is ordered to be paid in multiple payments, the initial payment must be at least 20% of the total amount awarded, with the remainder of the payments made within ten years. An action for compensation from the State must commence within three years after entry of an order.

5. This Act creates The Wrongful Imprisonment Compensation Fund (Fund) to be administered by the Office of the State Treasurer, who shall expend money from the Fund only to pay authorized claims. The Fund does not revert to the General Fund at the close of a fiscal year.

6. According to the National Registry of Exonerations, there have been three exonerations in this State in the past 32 years. If these three individuals petition the court and are awarded compensation, the estimated maximum total cost to the State, including attorney fees, would be $2,505,589.

7. There are no known pending exonerations in this State, and the number of individuals who may file a complaint for compensation against the State in Superior Court is unknown at this time. It is also unknown how the Superior Court may order the payment of compensation as outlined in assumption four. This analysis assumes the maximum costs to the State in Fiscal Year 2024.

Cost:

Fiscal Year 2022:	Not in effect until July 1, 2023
Fiscal Year 2023:	Not in effect until July 1, 2023
Fiscal Year 2024:	$2,505,589 (maximum)

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Office of the Controller General