

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **Senate Substitute for HB 2389**, on page 1, following line 7, by inserting:

"New Section 1. (a) As used in this section, "claimant" means the heirs, legal representatives or estate of a person convicted of capital murder as defined in K.S.A. 2013 Supp. 21-5401, and amendments thereto, and executed pursuant to the provisions of article 40 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, who was wrongfully convicted of such crime.

(b) A claimant may bring an action in an appropriate state court seeking damages from the state pursuant to this section and shall be entitled to damages from the state if such claimant establishes the following by clear and convincing evidence:

(1) The person convicted and executed did not commit the crime which resulted in such conviction and execution;

(2) the person convicted and executed did not commit or suborn perjury, fabricate evidence or by their own conduct cause or bring about their conviction and execution. Neither a confession or admission later found to be false shall constitute committing or suborning perjury, fabricating evidence or causing or bringing about such conviction and execution under this subsection; and

(3) the person convicted and executed did not plead guilty to the crime which resulted in such conviction and execution.

(c) The action shall be brought by the claimant within a period of two years after execution of the person convicted of capital murder. The action shall be accompanied by a statement of the facts concerning the claim for damages, verified in the manner provided for the verification of complaints in civil actions.

(d) (1) A claimant entitled to damages pursuant to subsection (b) shall be awarded damages in the amount of \$5,000,000.

(2) The court may order that the award be paid as an annuity with a payout over a maximum period of 20 years. The court shall consider the best interests of the claimant in making such determination.

(3) Damages awarded pursuant to this section shall be paid from the state general fund.

(e) In addition to the damages awarded pursuant to subsection (d), the claimant shall be entitled to receive reasonable attorney fees and costs related to the litigation. Such fees and costs shall be paid from the state general fund.

(f) Any award of damages to such claimant in an action against the state or any political subdivision thereof or against any employee of the state or any political subdivision thereof with respect to the same subject matter shall be offset by any award of damages awarded under this section.

(g) The provisions of this section shall apply to any claimant seeking damages related to an execution occurring on or after July 1, 2014.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2; after "to" by inserting "wrongful conviction and execution;"

Senator _____