Mike DeWine now opposes expansion of Ohio’s wrongful-incarceration settlement program

By Alan Johnson
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An expansion of Ohio’s settlement program for wrongfully incarcerated prisoners has hit a snag with strong new opposition from Attorney General Mike DeWine.

He sent letters this week to House Speaker Cliff Rosenberger, R-Clarksville, and Senate President Larry Obhof, R-Medina, asking them to remove the wrongful-incarceration provision from the state budget, which is scheduled for a vote Wednesday.

DeWine said he is concerned because the provision allows financial settlements for ex-inmates who were released because of procedural errors, not just innocence.

“A child rapist, who committed the crime, but had his conviction overturned on appeal due to a procedural error, would be awarded over $50,000 per year of prison time, plus attorney fees and lost wages,” DeWine wrote.

DeWine said he also thinks it’s inappropriate for the state to have to spend taxpayer money on a conviction overturned because a defendant’s private attorney provided ineffective assistance.

Ohio would have the most-lenient wrongful-settlement law in the U.S. if the measure passes, DeWine said. “If this provision remains in the budget, Ohio will be the only state in the union that allows for compensation for ANY error in procedure,” he wrote to legislators.
Mark Godsey, a University of Cincinnati law professor and head of the Ohio Innocence Project, disputed many of DeWine’s assertions. In a letter to the Dispatch, he said the provision would not expand eligibility for ex-prisoners seeking settlements based on technicalities. “It would simply clarify that an ‘error in procedure’ may have occurred before, during or after sentencing.”

The provision “would enact minor technical improvements to address roadblocks in the current compensation law,” he wrote. “Contradictory to the attorney general’s claims, it would not put the state at risk for major financial payouts.”

The wrongful conviction provision was added at the urging of state Rep. Bill Seitz, R-Cincinnati. He said it would fix what he said are errors where the Ohio Supreme Court has “gone off the rails” by improperly narrowing a 2003 law that was sponsored by Seitz and then-state Rep. Barbara Sykes, D-Akron. The existing law provides financial compensation to former inmates released because they were found innocent or because of serious mistakes in their cases.

The provision is supported the Ohio public defender, but is opposed by the Ohio Prosecuting Attorneys Association.

The change would not retroactively cover previous cases, but it could be applied if they are resubmitted for review under the new law.

The law allows compensation of $52,625 per inmate for each year of wrongful incarceration, plus attorneys’ fees, court fees and other expenses.

The proposal also would apply wrongful-imprisonment compensation findings to misdemeanor cases and allow courts to deduct debts from an ex-prisoner’s payout.

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