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## COMPENSATION FOR WRONGFUL CONVICTION, WRONGFUL INCARCERATION, AND EXONERATION

### Exoneration Overview

The National Registry of Exonerations<sup>1</sup> (Registry) maintains the country's largest database of exonerations. According to the Registry, 2,141 persons have been exonerated nationwide since 1989.

For purposes of the Registry, a person is considered to have been exonerated if he or she was convicted of a crime and later was either:

(1) declared to be factually innocent by a government official or agency with the authority to make that declaration; or (2) relieved of all the consequences of the criminal conviction by a government official or body with the authority to take that action. The official action may be: (i) a complete pardon by a governor or other competent authority, whether or not the pardon is designated as based on innocence; (ii) an acquittal of all charges factually related to the crime for which the person was originally convicted; or (iii) a dismissal of all charges related to the crime for which the person was originally convicted, by a court or by a prosecutor with the authority to enter that dismissal. The pardon, acquittal, or dismissal must have been the result, at least in part, of evidence of innocence that either (i) was not presented at the trial at which the person was convicted; or (ii) if the person pled guilty, was not known to the defendant and the defense attorney, and to the court, at the time the plea was entered. The evidence of innocence need not be an explicit basis for the official action that exonerated the person. A person who otherwise qualifies has not been exonerated if there is unexplained physical evidence of that person's guilt.<sup>2</sup>

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<sup>1</sup> *"The National Registry of Exonerations is a project of the Newkirk Center for Science & Society at University of California Irvine, the University of Michigan Law School and Michigan State University College of Law. It was founded in 2012 in conjunction with the Center on Wrongful Convictions at Northwestern University School of Law. The Registry provides detailed information about every known exoneration in the United States since 1989—cases in which a person was wrongly convicted of a crime and later cleared of all the charges based on new evidence of innocence."*  
<https://www.law.umich.edu/special/exoneration/Pages/mission.aspx>

<sup>2</sup> *National Registration of Exonerees*, <https://www.law.umich.edu/special/exoneration/Pages/glossary.aspx>

According to a survey compiled by the Innocence Project<sup>3</sup>, 32 states provide some sort of statutory compensation to people who were previously convicted of a felony and were incarcerated, but subsequently were shown to be innocent. Please see Appendix A for the Innocence Project's chart of state laws that provide for exoneree compensation.

## Compensation through the Courts

Some persons have filed a civil suit for wrongful conviction against state and local officials through a federal civil rights action, commonly referred to as a § 1983 action. The code reads, in part, "Every person who ...subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the *Constitution* and laws, shall be liable to the party injured in an action at law..."<sup>4</sup>

In a §1983 lawsuit, the plaintiff must show that their civil rights, guaranteed by the *U.S. Constitution*, were violated by either state or local officials. However, exonerees seeking compensation through a §1983 suit may encounter difficulties in proving the required elements or overcoming the high levels of immunity afforded to police and prosecutors in such suits.<sup>5</sup>

## Kansas Exoneree Compensation

Kansas is one of 18 states without specific statutory compensation for those who are exonerated of felony convictions after serving time in prison for that conviction. However, Kansas exonerees may file §1983 lawsuits or present claims through the Joint Committee on Special Claims.

### §1983 Lawsuit

A recent example of a Kansas exoneree who filed a federal civil lawsuit is Floyd Bledsoe. Mr. Bledsoe spent 16 years in prison for the murder of his niece, despite his brother, Tom Bledsoe, confessing to the murder many times.<sup>6</sup> DNA analysis proved Mr. Bledsoe to be innocent, and he was released from prison in 2016. Bledsoe filed a federal lawsuit in the federal District Court of Kansas. His complaint names Jefferson County law enforcement officers, Kansas Bureau of Investigation officers, the prosecutor, and Tom Bledsoe's defense attorney as defendants. Bledsoe claims the officers investigating the murder and the district attorney conspired to fabricate evidence and deprived him of his civil rights. Bledsoe has demanded a jury trial, which is pending resolution of dispositive motions as of December 27, 2017.

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3 *The Innocence Project, founded in 1992 by Peter Neufeld and Barry Scheck at Cardozo School of Law, exonerates the wrongly convicted through DNA testing and reforms the criminal justice system to prevent future injustice.* <https://www.innocenceproject.org/about/>

4 42 USC § 1983

5 See "Wrongful Conviction Claims Under Section 1983," Martin A. Schwartz and Robert W. Pratt, 27 *Touro L. Rev.* 221 (2011).

6 *Complaint, Bledsoe v. Jefferson County, Kansas, et. al.*, No. 16-02296 (D. Kan. filed May 10, 2016).

## ***Joint Committee on Special Claims***

The Joint Committee on Special Claims was established near the turn of the 20<sup>th</sup> century. Its statutory purpose is to provide a venue for claimants to present claims against the state for which there is no other recourse.

Claimants must complete the proper paperwork before their claim will be considered by the Joint Committee. Exonerees may bring wrongful incarceration claims to the Joint Committee requesting compensation for time spent in prison. However, there is no requirement that claimants be out of prison. Thus, some claimants may be currently incarcerated for other crimes, or may present a claim for wrongful incarceration while still being incarcerated.

The National Registry of Exonerations lists ten exonerees in Kansas since 1989.<sup>7</sup> Of those exonerees, one claimant has presented a claim to the Joint Committee and was awarded \$350,000 in 1992 for six years of wrongful incarceration.

A search of Special Committee claims since 1975 revealed a number of other claims that could fall within the scope of wrongful incarceration or imprisonment claims. A chart of these claims is included as Appendix B.

## ***Recent Legislation***

A search of legislation since 2007 reveals that three bills have been introduced in the Kansas Legislature that would have provided for a statutory amount of compensation for exonerees. All were introduced in 2016 or later and none were enacted.

### ***2016 SB 430***

2016 SB 430 would have provided compensation to those who were exonerated of a felony conviction. It would have required the claimant to bring a case for compensation within two years of release from imprisonment. Additionally, the bill would have provided for payment of \$80,000 per year of imprisonment served, including portions of a year.

### ***2016 HB 2611***

2016 HB 2611 would have provided compensation to those who were exonerated of a felony conviction. It would have required the claimant to bring a case for compensation within two years of release from imprisonment. Additionally, the bill would have provided for payment of the federal minimum wage multiplied by 2,080, per year of imprisonment served.

### ***2017 SB 125***

2017 SB 125, currently in the Senate Committee on Judiciary, would provide compensation to those who were exonerated of a felony conviction. It would require the claimant to bring a case for compensation within two years of release from imprisonment. Additionally, the bill would provide for payment of \$80,000 per year of imprisonment served, including portions of a year.

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<sup>7</sup> Exonerees listed in the National Registry of Exonerations meet the qualifications stated on page 1 of this memo.

Further, the bill would provide special compensation to those exonerated of a capital murder conviction, and who were sentenced to death. Exonerees of capital murder would be awarded damages in the amount of \$1.0 million. However, the court could order the state to pay the amount as an annuity over a maximum term of 20 years.

Finally, if the exoneree was convicted of capital murder, sentenced to death, and subsequently executed by the state, their heirs, legal representative, or estate could bring a claim for statutory damages in the amount of \$5.0 million. The court could order that the damages be paid as an annuity over a maximum term of 20 years.

**COMPENSATION STATUTES: A NATIONAL OVERVIEW**

<b>STATE</b>	<b>STATUTE</b>	<b>WHEN PASSED</b>	<b>ELIGIBILITY</b>	<b>STANDARD OF PROOF</b>	<b>WHO DECIDES</b>	<b>TIME LIMITS FOR FILING</b>	<b>MAXIMUM AWARDS</b>	<b>OTHER AWARDS</b>	<b>FUTURE CIVIL LITIGATION</b>	<b>CONTRIBUTORY PROVISIONS</b>
<b>AL</b>	Ala.Code 1975 § 29-2-150, et seq.	2001	Conviction vacated or reversed and the charges dismissed on grounds consistent with innocence	Not specified	State Division of Risk Management and the Committee on Compensation for Wrongful Incarceration	2 years after exoneration or dismissal	Minimum of \$50,000 for each year of incarceration, Committee on Compensation for Wrongful Incarceration can recommend discretionary amount in addition to base, but legislature must appropriate any funds	Not specified	Not specified	A new felony conviction will end a claimant's right to compensation
<b>CA</b>	Cal Penal Code §§ 4900 to 4906; §	Amended 2000; 2006; 2009; 2013; 2015	Pardon for innocence or being "innocent"; declaration of factual innocence	Not specified	California Victim Compensation and Government Claims Board makes a recommendation to the legislature	2 years after judgment of acquittal or discharge given, or after pardon granted, after release from imprisonment, from release from custody	\$140 per day of incarceration	Not specified	Not specified	Requires the board to deny a claim if the board finds by a preponderance of the evidence that a claimant pled guilty with the specific intent to protect another from prosecution for the underlying conviction for which the claimant is seeking compensation.

STATE	STATUTE	WHEN PASSED	ELIGIBILITY	STANDARD OF PROOF	WHO DECIDES	TIME LIMITS FOR FILING	MAXIMUM AWARDS	OTHER AWARDS	FUTURE CIVIL LITIGATION	CONTRIBUTORY PROVISIONS
CO	C.R.S.A. § 13-65-101, et seq.;	2013	Requires the state compensate a person, or the immediate family members of a person, who has been: 1) wrongly convicted of a felony, or wrongly adjudicated as juvenile delinquent for the commission of an offense that would be a felony if committed by a person 18 years of age or older; 2) incarcerated; and 3) exonerated and found to be actually innocent. A person who is eligible to seek compensation from the state as an exonerated person, or the immediate family members of such a person, may petition a district court for an order declaring the person to be actually innocent and eligible to receive an order of compensation.	Clear and convincing	District Court in the county in which the case originated.	2 years after exonerated or dismissal	Colorado inmates will receive \$70,000 for each year wrongfully incarcerated, an additional \$50,000 for each year on death row, and other assistance in the form of tuition waivers and healthcare from the state of Colorado. An additional \$25,000 for each year that he or she served on parole, on probation, or as a registered sex offender after a period of incarceration.	On or before September 1, 2013, the commission shall implement a policy whereby, except as limited in this section, each institution of higher education in the states shall waive all tuition costs, including any mandatory fees associated with attendance at the institution, for an exonerated persons and for children of an exonerated person or custodial child of an exonerated person, as defined in section	Not Specified	A claimant cannot be compensated for those years when he or she was concurrently serving a sentence for an unrelated offense.  In each year in which an exonerated person receives any annual payment from the state court administrator, the exonerated person's annual payment shall be reduced by ten thousand dollars if the exonerated person fails to present to the state court administrator a policy or certificate showing that the exonerated person has purchased or otherwise acquired a qualified health plan for himself or herself and his or her dependents that is valid for at least six months.

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CT	CT ST 54-102uu	2008; 2016	Pardon, or conviction vacated, or reversed, and the charges dismissed on grounds consistent with innocence	Preponderance of the evidence	Claims Commissioner	2 years from date of pardon or dismissal	Amount per year is calculated based on anywhere between 75-200% of the median CT household income.	Commissioner may order payment for job training, counseling, tuition at state school, and any other services such person may need to facilitate such person's reintegration into the community	Permits	Not specified

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DC	DC ST § 2-421, et seq.	1981	Pardon for innocence or conviction reversed or set aside on the ground that claimant is not guilty.	Clear and convincing	Civil Court	Not specified	\$200,000 for each year of incarceration, to include a pro-rated amount for partial years served; \$40,000 for each year served on parole, probation, supervised release, or as a registered sex offender,	Physical and mental health care for the duration of the petitioner's life through automatic participation in comprehensive community-centered health care and medical services system; Reimbursement for any tuition and fees for the petitioner's education, vocational or employment skills development program; Reimbursement for child support payments. Reimbursement for attorneys fees. In addition, within 21 days after a petition for compensation is approved, the petitioner will receive \$10,000 to assist in immediately securing services such as: housing; transportation; subsistence; re-integrative services; and mental and physical health care.	Not specified	Claimant must show that he did not, by his misconduct, bring about the prosecution, and he must not have pled guilty

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FL	FL ST 961.01, et seq.	2008; many amendments, last in 2013, and 2014 (HB 227)	Certification by prosecuting authority that petitioner is innocent, that no further criminal proceeding will be initiated, no questions of fact remain, and petitioner is eligible for compensation	If prosecuting authority does not certify, admin. law judge must find innocence by clear and convincing	Trial court – can consider claim even if prosecuting authority does not certify innocence. Claim would then be sent to admin. law judge for factual determination of innocence, and trial judge could adapt findings or not	Initially, petitioner must file for a declaration of wrongful conviction. After July, 2008, petitioner must file w/in 90 days after order vacating conviction. Prior to July 08, by July 1, 2010. Then must file for compensation w/in 2 years from declaration.	\$50,000 per year, adjusted for COL increases (cap of \$2 million) court costs and reasonable attorneys' fees	120 hours of tuition at a career center, community college or state university; and any fines or costs imposed at sentence;	Bars	Must not have been convicted of a felony before or during the wrongful incarceration
IL	Ill Rev Stat ch. 705 § 505/1, et. Seq.	1945; many amendments, last in 2009, and 2011 (SB 389)	Pardon for innocence or certificate of innocence	Preponderance of the evidence	Court of Claims	2 years after the person asserting such claim is either issued a certificate of innocence as provided in Section 2-702 of the Code of Civil Procedure, or is granted a pardon by the Governor, whichever occurs later	≤5 yrs., \$85,350 max, ≤14 yrs., \$170,000 max, >14 yrs., \$199,150 max, with COLA increase	IL ST CH 20 § 1015/2 provides that the wrongfully accused receive job search and placement services, including assessment, resume assistance, interview preparation, occupational and labor market information, referral to employers with job openings *NOTE SB 389 (enacted 2011) requires the Department of Human Services to establish a re-entry services program to assist for the wrongfully convicted in obtaining mental health services	Not specified	Not specified

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HI	HB1046 HD2 SD2 CDI	2016	Conviction reversed or vacated on actual innocence grounds or Pardoned on actual innocence grounds	Preponderance of the evidence	Circuit court where petitioner lives or the circuit court for the first circuit (if petitioner lives out of state).	2 years	\$50,000 per year, with a maximum of an additional \$100,000 for special circumstances and \$10,000 for attorney's fees.		Bars	A claimant cannot be compensated for those years when he or she was concurrently serving a sentence for an unrelated offense, or if the state proves by a preponderance of the evidence that the petitioner conspired, attempted, solicited, or assisted in the commission of the crime.
IA	Iowa Code Ann. § 663A.1	1997	Conviction vacated or reversed and charges dismissed	Clear and Convincing	District Court for liability; State Appeal Board or Civil Ct. for Damages	2 years	\$50 per day and attorneys' fees	lost wages up to \$25,000 per year	Does not preclude any action based on any negligent or wrongful acts or omissions which arose during the period of the wrongful imprisonment, but which are not related to the facts and circumstances underlying the conviction or proceedings to obtain relief from the conviction.	Claimant must not have pled guilty

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<b>LA</b>	R.S.15:572.8 and Code Civ. Pro. Art. 87 (amended by HB 285)	2005; amd. 2011	Conviction reversed or vacated, and petitioner "has proven" factual innocence	Clear and Convincing	19 <sup>th</sup> Judicial District Court - trial by judge alone.	2 years from vacatur of conviction or for cases pending when statute was passed (i.e. by September 2007)	\$25,000 per year; with a maximum award of \$250,000	Court may award costs of job/skills training for three years, and medically necessary medical and counseling services for six years; as well as tuition expenses at a community college or unit of the state university system –at a cost of not more than \$80,000	Permits	Not specified
<b>MA</b>	Ann L. MA. Gen'l Laws, Chapter 258D § 1-9	2004	Pardon or conviction reversed and charges dismissed on grounds consistent with innocence or case tried to acquittal	Clear and convincing	Superior Court in the county where the claimant was convicted or in Suffolk County	2 years	A maximum of \$500,000 may be awarded No punitive or exemplary damages	Court may order services – physical and/or emotional, educational services at any state of community college (50 % reduction of the tuition and fees applicable to such services at said institutions), and expungement of the record of conviction	Permits	Claimant cannot have pled guilty, unless such plea was withdrawn, vacated or nullified by operation of law
<b>ME</b>	14 Me Rev Stat Ann § 8241-8244	1993	Pardon for innocence	Clear and convincing	Superior Court	2 years from pardon	\$300,000 no punitive or exemplary damages	Not specified	Not specified	Not specified
<b>MD</b>	Md State Fin & Proc § 10-501	1999; amd. 2003	Pardon stating that the individual's conviction has been shown conclusively to be in error	Not specified	Board of Public Works	Not specified	Actual damages	Not specified	Not specified	Not specified

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MI	SB 291 (waiting for final statute cite)	2016	Judgment of conviction was reversed or vacated and charges were dismissed or found not guilty on retrial.	Clear and convincing	Court of Claims	Within 3 years of the entry of a verdict, order, or judgment. Or, if the individual was exonerated prior to the effective date, then within 18 months after the effective date.	\$50,000 per year	Reimbursement of any amount collected by the state, reasonable attorneys fees; records expunged.	Prohibits state court claims, but permits federal claims.	Not specified
MN	M.S.A. § 590.11 & § 611.362, et seq.	2014	Court vacated or reversed conviction on grounds consistent with innocence and charges dismissed; claimant found not guilty or had charges dismissed at new trial; or the time for appeal of the order resulting in exoneration has expired or the order has been affirmed and is final.	Preponderance of the evidence	Compensation Panel	Within 2 years, but no less than 60 days after the petitioner is exonerated. Persons exonerated before the effective date of this act must commence an action within two years of its effective date.	Minimum of \$50,000 (\$100,000 max.) per year, and minimum of \$25,000 (\$50,000 max.) per year served on parole, probation, or as a registered sex offender as compensation. Compensation also includes reasonable attorney fees.	Award may also include reimbursement for: (1) economic damages, associated with the claimant's criminal defense; (2) reimbursement for medical and dental expenses; (3) noneconomic damages; (4) tuition and fees associate with education at public four year college; (5) paid or unpaid child support payments; (6) costs of immediate services upon exoneration and release.	Likely permit; Any award of damages to such person 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 act.	Not specified
MS	MS ST § 11-44-1, et seq.	2009	Pardon based on the innocence or conviction was vacated and/or reversed	Preponderance of the evidence	Circuit court of the county in which the claimant was convicted	3 years	\$50,000 per year; \$500,000 cap; reasonable attorney's fees	Not specified	Likely permit against municipalities	Not specified
MO	V.A.M.S. 650.058	2006	Person must be determined to be 'actually innocent' only by DNA evidence	DNA evidence must demonstrate innocence	Sentencing court	1 year from release from confinement – after August 28, 2003	\$50 per day of post-conviction confinement	Not specified	Bars	Not specified

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MT	Mont. Code Ann. § 53-1-214	2003	Judgment of conviction was overturned by a court based on the results of post-conviction forensic DNA testing that exonerates the person of the crime for which the person was convicted	Not specified (reliant upon eligibility finding)	Funds to be appropriated by the legislature	The privilege of receiving aid under this section remains active for 10 years after the release of a person	Provides educational aid (expenses for tuition, fees, books, board, and room at any MT community college, unit of the MT university system, or accredited MT tribally controlled community college)	Not specified	Not specified	Not specified
NE	NE ST 29-4601, et seq.	2009	Board of Pardons has pardoned the claimant, a court has vacated the conviction of the claimant, or that the conviction was reversed and remanded for a new trial and no subsequent conviction was obtained	Clear and convincing	Not specified	Not specified	\$500,000 cap	Not specified	Likely permit against municipalities	That he or she did not commit or suborn perjury, fabricate evidence, or otherwise make a false statement to cause or bring about such conviction or the conviction of another, with respect to the crime or crimes under subdivision (1) of this section, except that a guilty plea, a confession, or an admission, coerced by law enforcement and later found to be false, does not constitute bringing about his or her own conviction of such crime or crimes
NH	NH Stat § 541-B:14	1977, amd. most recently 2007	"Found innocent"	Board must find by majority vote that claim is "justified"	Board of Claims	3 years	\$20,000 cap	Not specified	Likely permit against municipalities	Not specified

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NJ	NJ Stat Ann §§ 52:4C-1 to 4C-7	1997; amd, 2013	Notwithstanding the provisions of any other law, any person convicted and subsequently imprisoned for one or more crimes which he did not commit.	Clear and convincing	Superior Court	2 years from release or pardon	Twice the amount of claimant's income in the year prior to incarceration or 50K per year of incarceration, whichever is greater, (if damages exceed \$1 million the court may order that the award be paid as an annuity with a payout over a maximum period of 20 years), reasonable attorney fees, costs related to the litigation. Not be subject to treatment as gross income	Non-monetary relief (as sought in the complaint)	Likely permit: b. Any award of damages to such person 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 act.	Claimant did not, commit or suborn perjury, fabricate evidence, by his own conduct cause or bring about his conviction, or plead guilty. Neither a confession or admission later found to be false constitutes committing or suborning perjury, fabricating evidence, or causing or bringing about his conviction under this subsection; and he did not do the crime for which he was convicted.
NY	NY Ct. of Claims Act § 8-b	1984, amd. 2007	Pardon or conviction reversed and charges dismissed on grounds consistent with innocence or case tried to acquittal	Clear and convincing	Court of Claims	2 years	No limit	Not specified	Not specified	Claimant did not by his own conduct cause or bring about the conviction

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NC	NC Gen Stat §§ 148-82 to 148-84	1947; amd.2008	Pardon for innocence	Not specified	Industrial Commission makes a recommendation to Governor	5 years	\$50,000 each year Max. of \$750,000	Award may also include job skills training for at least one year and tuition reimbursement at any NC community college or constitution institution of the University of NC (claimants are also entitled to assistance in meeting any admissions standards, including satisfying requirements for completion of secondary education)	Not specified	Not specified

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<b>OH</b>	Ohio Rev Code Ann § 2305.02 & § 2743.48	1986; amd. 2002, 2010	Conviction vacated or reversed and charges dismissed	Preponderance of evidence; <i>Walden v. State</i> , 547 N.E.2d 962	Court of Common Pleas for liability; Court of Claims for damages	2 years	\$40,330 per year, (or amt. determined by state auditor) in addition to lost wages, costs, and attorney's fees	Within sixty days after the date of the entry of a court of common plea's determination that a person is a wrongfully imprisoned individual, the clerk of the court of claims shall forward a preliminary judgment to the president of the controlling board requesting the payment of fifty per cent of the amount described in division (E)(2)(b) of this section to the wrongfully imprisoned individual. The board shall take all actions necessary to cause the payment of that amount out of the emergency purposes special purpose account of the board	Not specified	Claimant must not have pled guilty; prosecutor must agree not to refile charges.
<b>OK</b>	51 Okl. St. § 154	1978, amd. 2003	Pardoned or conviction vacated and charges dismissed on the basis of actual innocence	Clear and convincing	State Civil Court	No time limit	\$175,000 cap no punitive damages	Not specified	Not specified	Claimant must not have pled guilty
<b>TN</b>	Tenn Code Ann §9-8-108	1984, amd. 2004; 2010; 2012; 2013	granted exoneration pursuant to § 40-27-109 (exoneration by governor)	Not specified	Board of Claims	1 year	\$1,000,000 cap	Not specified	Not specified	Not specified

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TX	Tex Code Ann §§ 103.001;103.051; 052, 103.1041.	2001; amd. 2011	full pardon on the basis of innocence; writ of habeas corpus based on a court finding or determination that the person is actually innocent or writ of habeas corpus and: (i) district court entered an order dismissing the charge; and (ii) district court's dismissal order based on motion to dismiss in which the state's attorney states that no credible evidence exists that inculpates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent	Preponderance of evidence	Comptroller's Judiciary Section	Not later than the third anniversary of the date the person on whose imprisonment the claim is based received the pardon or was granted relief	\$80,000 per year, plus an annuity; reintegration financial assistance that does not exceed \$10,000 Attorney fees, lost wages	Counseling expenses for up to one year, child support arrears, tuition for up to 120 credit hours, including tuition and any mandatory fees associated with attendance at the institution  501.091: Development of a comprehensive plan to ensure the successful reentry and reintegration of wrongfully imprisoned person into community, including life-skills, job, and vocational training, provision of necessary documents  SB1686: Eligibility to obtain group health benefit coverage through the TX Department of Criminal Justice as if the person were an employee of the Department	Bars (though see <i>State v. Oakeley</i> , 227 S.W.3d 58 (Tex. 2007) (clarifying that claimant may first bring 1983 claim and then file claim under statute, but not vice versa))	Provides for both a lump sum and an annuity payment. Claimants don't receive lump sum compensation for years where time was served on other, unrelated charges, and annuity payments will terminate if the claimant is <i>subsequently</i> convicted of a crime punishable as a felony.

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UT	78-35a-405	2008; amd. 2011, 2012	factual innocence under Utah 78-35a-402	Not specified (reliant upon eligibility finding)	District court where conviction was rendered	Petitioner must file for post-conviction relief (e.g. declaration of innocence) w/in 1 year of final judgment, or date on which petitioner should have known of new facts upon which petition is based - no separate limit for filing claim for compensation	For 15 years, petitioner may receive the monetary value of average annual nonagricultural payroll.	Office of Crime Victim' Reparation to make initial payment w/in 45 days of court finding of innocence	May permit against municipalities	Payments may be suspended if petitioner is convicted of a subsequent felony
VA	8.01-195.10, et seq.	2004; amd. 2010, 2012, 2014	Conviction vacated pursuant to VA Chapter 19.2 or 19.3 or absolute pardon	Not specified	General Assembly	Not Specified	90% of the VA per capita personal income– for each year of incarceration	Reimbursement up to \$10,000 for tuition for career and technical training in the VA Comm. College system; transition assistance grant worth \$15,000, which would be deducted from any award received pursuant to the statute	Bars	Claimant may not have pled guilty – unless he or she was charged with a capital offense or convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life. the person incarcerated did not by any act or omission on his part intentionally contribute to his conviction for the felony for which he was incarcerated If the claimant is subsequently convicted of a felony, he or she becomes ineligible to receive further payments

STATE	STATUTE	WHEN PASSED	ELIGIBILITY	STANDARD OF PROOF	WHO DECIDES	TIME LIMITS FOR FILING	MAXIMUM AWARDS	OTHER AWARDS	FUTURE CIVIL LITIGATION	CONTRIBUTORY PROVISIONS
VT	13 V.S.A Chptr. 182	2007; amd. 2014	The conviction was reversed or vacated and the charges dismissed, or tried to an acquittal, or a pardon was granted.	Clear and convincing evidence	Washington County Supreme Court	3 years from exoneration, unless claimant was not provided with notice of the right to bring an action, in which case claimant shall be granted an additional year in which to file	Minimum of 30K per year - maximum of 60K per year of incarceration, adjusted proportionally for partial years served; Awards may include in addition: lost wages, costs, and attorneys fees	Claimant entitled to up to 10 years of eligibility for Vermont State Health Plan; Award is not taxable by state and no offset for cost of incarceration is allowed	Likely permit against municipalities	Claimant did not suborn perjury or fabricate evidence during any of the proceedings related to the crime with which he or she was charged
WA	RCWA §4.100.010, et seq.	2013	Any person convicted in superior court and subsequently imprisoned for one or more felonies of which he or she is actually innocent may file a claim for compensation against the state.	Clear and convincing evidence	Superior Court	An action for compensation under this chapter must be commenced within three years after the grant of a pardon, the grant of judicial relief and satisfaction of other conditions, or release from custody, whichever is later.	\$50,000 for each year of imprisonment and time spent waiting for trial; an additional \$50,000 for each year on death row; and \$25,000 for each year spent on parole, community custody or on a sex offender registry	Child support and attorney fees up to \$75,000.	Compensation shall be exclusive to all other remedies at law and in equity against the state or any political subdivision of the state. As a requirement to making a request for relief under this chapter, the claimant waives any and all other remedies, causes of action, and other forms of relief or compensation against the state, any political subdivision of the state, and their officers, employees, agents, and volunteers related to the claimant's wrongful conviction and imprisonment.	A guilty plea to a crime the claimant did not commit, or a confession that is later determined by a court to be false, does not automatically constitute perjury or fabricated evidence under this subsection.  Claimant will not receive compensation for the period of time that he or she was serving a term of imprisonment or a concurrent sentence for any crime other than the felony or felonies that were the basis for the claim.

STATE	STATUTE	WHEN PASSED	ELIGIBILITY	STANDARD OF PROOF	WHO DECIDES	TIME LIMITS FOR FILING	MAXIMUM AWARDS	OTHER AWARDS	FUTURE CIVIL LITIGATION	CONTRIBUTORY PROVISIONS
<b>WV</b>	W Va Code § 14-2-13(a)	1987, amd. 2014	Pardon for innocence, or conviction reversed and either charges dismissed or acquittal on retrial	Clear and convincing	Court of Claims	Not specified	Fair and reasonable damages	Not specified	Not specified	Claimant did not contribute to or bring about conviction
<b>WI</b>	Wis Stat § 775.05	1913, amd. 1987	None specified	Clear and convincing	Claims Board	Not specified	5K/yr, max 25K but Board may petition legislature for additional funds	Not specified	Not specified	Claimant did not contribute to or bring about conviction
<b>US (Fed)</b>	28 USC § 1495 & § 2513	1948; amd. 2004	Pardon for innocence, or conviction reversed or set aside on ground that claimant is not guilty and found not guilty at new trial or rehearing	Not specified	U.S. Court of Federal Claims	Not specified	Up to \$50,000 per year; (\$100,000 per year for each year on death row)	Not specified	Not specified	Claimant did not commit acts charged and did not by misconduct or neglect cause prosecution

Chart Initially Compiled by [the Innocence Project](#), Updated Periodically

**APPENDIX B**

**Wrongful Incarceration or Imprisonment**

<b>Claim Number</b>	<b>Claim Date</b>	<b>Name</b>	<b>Amount Claimed</b>	<b>Disposition</b>	<b>Amount Paid</b>
2103	9/24/1981	Ronald Quick	\$500,000	Denied	
2264	1/1/1983	Keith Carl	\$75,000	Allowed	\$75,000
3206	8/8/1989	Clarence Jackson	\$250,000	Allowed	\$96,000 plus interest over 36 installments
3403	8/24/1990	Andrew Herrera	\$7,500	Allowed	\$750
3425	8/22/1990	Larry Wassenberg	\$250,000	Denied	
3433	8/28/1990	Steven Hill	\$250	Allowed	\$250
3774	12/16/1992	Joe Jones	\$350,000	Allowed	\$350,000
3897	8/2/1993	Cardell Dale	\$100,000	Denied	
3913	9/21/1993	Fernando Hooks	\$22,800	Denied	
3937	11/1/1993	James Brooks	\$80,000	Denied	
3965	1/14/1994	Pedro Torres	\$1,062,000	Denied	
4119	1/8/1995	Juan Tomas de la Cruz	\$250,000	Denied	
4164	6/26/1995	Clifford Rush	\$109,500	Denied	
4222	11/2/1995	Ronald Gooding	\$500,000	Denied	
4256	2/16/1996	Anthony Jenkins	\$2,000 per day of incarceration	Denied	
4288	3/15/1996	Robert Bookless	\$500 per day since January 1987	Denied	
4321	6/24/1996	Donald Loggins	\$3,000 per day of incarceration since May 1996	Denied	
4498	9/29/1997	Fred Stepnay, Jr.	\$31,650	Denied	
4569	5/14/1998	Vernon Turner	\$229,500	Denied	
4583	8/26/1998	Laurence Wassenberg	\$4,000,000	Denied	
4639	1/29/1999	William Foy	\$250,000	Denied	
4641	1/29/1999	Andrew Green	\$250,000	Denied	
4656	2/25/1999	Sidney Clark, Jr.	\$50,000,000	Denied	
4677	5/4/1999	Bill Tucker, Jr.	\$26,000,000	Denied	
4700	6/24/1999	Steve Johnson	\$250,000	Denied	
4703	6/2/1999	John Jones	\$1,500,000	Denied	
4752	10/8/1999	Freda Quinn	\$200,000	Denied	
4789	12/16/1999	Natasha Hodge	\$200,000	Denied	
4832	3/24/2000	Sherman Galloway	\$60,000,000	Denied	
4844	4/27/2000	Brad Kimerling	\$14,000	Denied	
4848	4/18/2000	Dauvid Hause, Jr.	\$75,000	Denied	
4971	10/12/2000	Jeffery Garner	\$25,500,000	Denied	
5026	3/8/2001	Jesus Laureles	\$25,000	Denied	
5082	6/29/2001	William Holt	\$1,000 per day of incarceration	Denied	
5101	8/9/2001	Lisa Boldridge	\$2,385,920	Denied	
5140	12/27/2001	Dawn Dale	\$3,000,000	Denied	
5201	6/17/2002	Michael Finch	\$100,000	Denied	
5256	11/4/2002	Jeremy Holmes	\$40,800	Denied	
5646	1/18/2005	James Ivory	\$50,000	Denied	
5773	3/30/2006	Alice Buess	\$75,000	Allowed	Claim was stripped from appropriations bill.
5864	10/12/2006	Jimmie Foiles	\$106,285	Allowed	\$106,285
6100	9/26/2008	Wilbur McElroy	\$22,680	Denied	
6155	2/18/2009	Leticia Mitchell	\$121,000	Denied	
6185	7/24/2009	Kenneth Ward	\$570,000	Denied	
6234	12/21/2009	Ronald French	\$80,000	Denied	
6385	10/27/2011	Cory Cline	\$12,000	Denied	
6465	8/28/2012	Charles Sims	\$1,500,000	Denied	
6511	1/24/2013	Sherman Galloway	\$570,000	Denied	
6545	6/14/2013	Rolland Berreth	\$60,000,000	Denied	
6617	2/24/2014	Roy Humphrey	\$377,020	Denied	