

2019 Regular Session

HOUSE BILL NO. 492

BY REPRESENTATIVES LARVADAIN, AMEDEE, ARMES, BRASS, TERRY BROWN, CARMODY, CARPENTER, GARY CARTER, COX, DUPLESSIS, GAINES, GLOVER, JIMMY HARRIS, LANCE HARRIS, HOWARD, JAMES, JEFFERSON, JENKINS, MIKE JOHNSON, ROBERT JOHNSON, JORDAN, TERRY LANDRY, LYONS, MARCELLE, MARINO, MCFARLAND, MOORE, JAY MORRIS, NORTON, PIERRE, SEABAUGH, AND SMITH

1 AN ACT

2 To amend and reenact R.S. 15:572.8(H) and (N)(1) and (3) and to repeal Code of Civil
3 Procedure Article 87, relative to compensation for wrongful conviction and
4 imprisonment; to provide relative to the compensation received by the petitioner for
5 the loss of life opportunities resulting from the time spent incarcerated; to provide
6 relative to the purposes for which a person who is wrongfully convicted may receive
7 compensation for loss of life opportunities; to provide relative to the Innocence
8 Compensation Fund; to provide relative to the authority of the Louisiana
9 Commission of Law Enforcement and Administration of Criminal Justice in this
10 regard; to provide relative to the venue in which an application for compensation
11 based upon wrongful conviction and imprisonment may be filed; to provide relative
12 to changes made to R.S. 15:572.8(H)(1) and (2)(introductory paragraph) in Section
13 4 of Act No. 612 of the 2018 Regular Session of the Legislature and the repeal of
14 R.S. 15:572.8(N) and (S) in Section 22 of Act No. 612 of the 2018 Regular Session
15 of the Legislature; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 15:572.8(H) and (N)(1) and (3) are hereby amended and reenacted
18 to read as follows:

19 §572.8. Compensation for wrongful conviction and imprisonment; petition process;
20 compensation; proof; assignment of powers and duties

21 * * *

1 H.(1) After a contradictory hearing with the attorney general, the court shall
 2 render a decision as soon as practical. If, from its findings of fact, the court
 3 determines that the petitioner is entitled to compensation because he is found to be
 4 factually innocent of the crime of which he was convicted, it shall determine the
 5 amount of compensation due in accordance with the provisions of this Section, and
 6 it shall order payment to the petitioner from the Innocence Compensation Fund
 7 which shall be created specifically for the administration of awards under this
 8 Section.

9 (2) Compensation for the physical harm and injury suffered by the petitioner
 10 shall be calculated at a rate of twenty-five thousand dollars per year incarcerated, not
 11 to exceed a maximum total amount of two hundred fifty thousand dollars, ~~for the~~
 12 ~~physical harm and injury suffered by the petitioner~~ to be paid at a rate of twenty-five
 13 thousand dollars annually. ~~As~~

14 (3) In addition to the compensation provided in Paragraph (2) of this
 15 Subsection, the court shall order that the petitioner receive eighty thousand dollars
 16 total in compensation for the loss of life opportunities resulting from the time spent
 17 ~~incarcerated, the court shall also review requests for payment and order payment, not~~
 18 ~~to exceed eighty thousand dollars, which the court finds reasonable and appropriate~~
 19 and to cover expenses relating to job skills training, education, housing, and any
 20 other services the wrongfully convicted person may need. Any petitioner who has
 21 been awarded compensation pursuant to the provisions of this Paragraph and who
 22 has received a portion of the compensation prior to August 1, 2019, may file a
 23 petition prior to August 1, 2020, seeking the remainder of the compensation, not to
 24 exceed eighty thousand dollars total, authorized by the provisions of this Paragraph
 25 or be forever barred from filing the petition. Compensation ordered pursuant to the
 26 provisions of this Paragraph shall be paid from the Innocence Compensation Fund
 27 to:

- 28 (a) ~~Pay the costs of job-skills training for three years.~~
- 29 (b) ~~Pay for appropriate medically necessary medical and counseling services~~
- 30 ~~for six years to the petitioner at a mutually agreed upon location at no charge to the~~

1 petitioner, but only if such services are not available from a state or other public
2 facility, clinic, or office that is reasonably accessible to the petitioner.

3 (c)(i) ~~Provide expenses for tuition and fees at any community college or unit~~
4 ~~of the public university system of the state of Louisiana.~~

5 (ii) ~~State aid in accordance with this Subparagraph shall include assistance~~
6 ~~in meeting any admission standards or criteria required at any of the applicable~~
7 ~~institutions, including but not limited to assistance in satisfying requirements for a~~
8 ~~certificate of equivalency of completion of secondary education and assistance in~~
9 ~~completing any adult education program or courses.~~

10 (iii) ~~The right to receive aid in accordance with this Subparagraph shall be~~
11 ~~for ten years after the release of a petitioner who qualifies for aid. State education~~
12 ~~aid shall continue for up to a total of five years of aid when initiated within the ten-~~
13 ~~year period or until the degree or program for which the petitioner is authorized is~~
14 ~~completed, whichever is less, as long as the petitioner makes satisfactory progress~~
15 ~~in the courses or program in which he is enrolled. Aid shall be available for~~
16 ~~completion of any degree or program which the petitioner chooses and which is~~
17 ~~available from the applicable institutions.~~

18 (3)(4) In determining the compensation owed to the petitioner, the court may
19 not deduct any expenses incurred by the state or any of its political subdivisions in
20 connection with the arrest, prosecution, conviction, and imprisonment of the
21 petitioner for a crime of which the board finds he was factually innocent, including
22 expense for food, clothing, shelter, and medical services.

23 (4)(5) A petitioner shall not be entitled to compensation for any portion of
24 a sentence in prison during which he was also serving a concurrent sentence for the
25 conviction of another crime.

26 * * *

27 N.(1) There is hereby established a ~~special fund~~ in the state treasury a special
28 fund to be known as the Innocence Compensation Fund, hereinafter referred to as the
29 "fund". The fund shall be administered by the Louisiana Commission on Law
30 Enforcement and Administration of Criminal Justice. The source of monies for the

1 fund shall be appropriations, donations, grants, and other monies which may become
2 available for the purposes of the fund. Any judgment rendered pursuant to this
3 Section shall be payable only from the fund established herein. No state agency,
4 political subdivision, constitutional office, nor employee thereof shall be liable for
5 any payment ordered pursuant to this Section.

6 * * *

7 (3) Monies appropriated from the fund shall be used exclusively ~~by the court~~
8 to compensate petitioners who are found to be factually innocent of the crime of
9 which they were convicted; as provided in ~~Subsection A~~ of this Section.

10 * * *

11 Section 2. Code of Civil Procedure Article 87 is hereby repealed in its entirety.

12 Section 3. It is the intent of the legislature that the changes made to R.S.
13 15:572.8(H)(1) and (2)(introductory paragraph) in Section 4 of Act No. 612 of the 2018
14 Regular Session of the Legislature and the repeal of R.S. 15:572.8(N) and (S) in Section 22
15 of Act No. 612 of the 2018 Regular Session of the Legislature shall never go into effect and
16 that the provisions of this Act shall control. Therefore, notwithstanding the provisions of
17 Section 25 of Act No. 612 of the 2018 Regular Session of the Legislature, the provisions of
18 Section 4 of Act No. 612 of the 2018 Regular Session that amended and reenacted R.S.
19 15:572.8(H)(1) and (2)(introductory paragraph) and the provisions of Section 22 of Act No.
20 612 of the 2018 Regular Session that repealed R.S. 15:572.8(N) and (S) shall not become
21 effective and are hereby repealed.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____