

## RÉSUMÉ DIGEST

ACT 121 (HB 492)

2019 Regular Session

Larvadain

Existing law provides that any person who has served, in whole or in part, a sentence of imprisonment under the laws of this state for a crime for which he was convicted is entitled to receive compensation if the conviction has been reversed or vacated and the person has proved by clear and convincing evidence that he is factually innocent of the crime for which he was convicted.

If, after a contradictory hearing with the attorney general pursuant to existing law, the court determines that the petitioner is entitled to compensation because he is found to be factually innocent of the crime for which he was convicted, existing law requires the court to order that the petitioner receive compensation for the physical harm and injury suffered by the petitioner in an amount equal to \$25,000 per year incarcerated, not to exceed a maximum total amount of \$250,000. Such compensation is payable from the Innocence Compensation Fund at a rate of \$25,000 annually.

In addition, prior law authorized the court to order compensation for the loss of life opportunities resulting from the time spent incarcerated. In this regard, prior law required the court to review requests for payment and order payment, not to exceed \$80,000, which the court found reasonable and appropriate. Such compensation was required to be paid from the Innocence Compensation Fund and only for the following purposes:

- (1) The costs of job-skills training for three years.
- (2) Appropriate medically necessary medical and counseling services for six years.
- (3) Tuition, fees, and certain other expenses associated with attendance at any community college or unit of the public university system of the state of Louisiana for ten years after the release of the petitioner.

New law amends prior law to require the court, upon determining that the petitioner is factually innocent of the crime for which he was convicted, to order compensation for the physical harm and injury suffered by the petitioner at the rate set forth in existing law, and to also order that the petitioner receive \$80,000 in compensation for the loss of life opportunities and to cover expenses relating to job skills training, education, housing, and any other services such wrongfully convicted person may need. New law removes the prior law criteria for each category of compensation and the prior law limitations placed on the number of years for which the petitioner may receive compensation for loss of life opportunities.

New law further provides that any petitioner who has been awarded compensation and who has received a portion of such compensation prior to August 1, 2019, may petition the court by August 1, 2020, to seek the remainder of the compensation, not to exceed \$80,000, or be forever barred from filing such petition.

Existing law establishes in the state treasury a special fund, to be known as the Innocence Compensation Fund, administered by the La. Commission on Law Enforcement and Administration of Criminal Justice (LCLE). Existing law provides that the fund shall be used exclusively to compensate petitioners who are found to be factually innocent of the crime for which they were convicted. Existing law further authorizes LCLE to adopt rules for the purpose of administering the fund and implementing the provisions of existing law.

Act No. 612 of the 2018 R.S. provided for the elimination of the existing law Innocence Compensation Fund and LCLE's rulemaking authority with regard to the fund effective July 1, 2020, and upon elimination of the fund, provided for the payment of compensation awarded from the state general fund.

New law provides that Act No. 612 of the 2018 R.S. that provided for the elimination of the existing law Innocence Compensation Fund and the authority of LCLE to administer the fund effective July 1, 2020, shall not go into effect and that the provisions of new law shall control.

New law further repeals a provision of prior law (C.C.P. Art. 87) that conflicted with the existing law (R.S. 15:572.8(C)) requirement that petitions for wrongful conviction be filed in the district court in which the original conviction was obtained.

Effective August 1, 2019.

(Amends R.S. 15:572.8(H) and (N)(1) and (3); Repeals C.C.P. Art. 87)