

2024 Regular Session

HOUSE BILL NO. 817

BY REPRESENTATIVE HUGHES

CRIMINAL/PROCEDURE: Provides relative to wrongful conviction and imprisonment

1 AN ACT

2 To amend and reenact R.S. 15:572.8(E), (F), and (H)(1), relative to wrongful conviction; to
3 provide for parties to wrongful conviction proceedings; to provide relative to
4 procedural timelines; to provide relative to actions of the court; to provide for an
5 effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:572.8(E), (F), and (H)(1) are hereby amended and reenacted to
8 read as follows:

9 §572.8. Compensation for wrongful conviction and imprisonment; petition process;
10 compensation; proof; assignment of powers and duties

11 * * *

12 E. The attorney general ~~shall~~ or the district attorney of the parish in which
13 the conviction was obtained may represent the state of Louisiana in these
14 proceedings. The court shall serve a copy of any petition filed pursuant to this
15 Section upon the attorney general and the district attorney of the parish in which the
16 conviction was obtained and upon the court that vacated or reversed the petitioner's
17 conviction or upon the pardon board if the conviction was vacated through executive
18 clemency within fifteen days of receiving such petition. Upon receipt of the petition
19 and of confirmation of service on the attorney general's office and the office of the
20 district attorney of the parish in which the conviction was obtained, the court shall

1 ask the state, through the attorney general's office or the office of the district attorney
 2 of the parish in which the conviction was obtained, to respond to the petition within
 3 ~~forty-five~~ thirty days of service of the petition. A maximum of ~~two extensions~~ one
 4 extension of thirty fifteen days may be granted by the court upon written request by
 5 the state for cause shown. The court shall set a hearing within ~~forty-five~~ thirty days
 6 of the ~~attorney general's~~ response of either the attorney general or of the district
 7 attorney of the parish in which the conviction was obtained. Unless otherwise
 8 provided herein, the Louisiana rules of evidence shall apply.

9 F. The petition shall contain a recitation of facts necessary to an
 10 understanding of the petitioner's innocence that is supported by either the opinion or
 11 order vacating the conviction and sentence ~~and/or~~ or by the existing court record of
 12 the case, or both. Specific citations for each fact tending to show innocence shall be
 13 made to the existing record.

14 * * *

15 H.(1) After a contradictory hearing with the attorney general or the district
 16 attorney of the parish in which the conviction was obtained, the court shall render a
 17 decision ~~as soon as practical~~ within thirty days of the contradictory hearing. If, from
 18 its findings of fact, the court determines that the petitioner is entitled to
 19 compensation because he is found to be factually innocent of the crime of which he
 20 was convicted, it shall determine the amount of compensation due in accordance
 21 with the provisions of this Section, and it shall order immediate payment to the
 22 petitioner from the Innocence Compensation Fund which shall be created specifically
 23 for the administration of awards under this Section.

24 * * *

25 Section 2. This Act shall become effective upon signature by the governor or, if not
 26 signed by the governor, upon expiration of the time for bills to become law without signature
 27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 817 Original

2024 Regular Session

Hughes

Abstract: Provides relative to wrongful conviction procedures.

Present law provides for compensation for wrongful conviction and imprisonment as well as procedures that outline the petition process.

Proposed law retains present law.

Present law requires the attorney general to represent the state of La. in wrongful conviction proceedings.

Proposed law amends present law to make the participation of the attorney general optional and adds the district attorney of the parish in which the conviction was obtained as an alternative party who can be served, file a response, and participate in wrongful conviction proceedings.

Present law provides that a response to a petition for compensation based on wrongful conviction and imprisonment shall be within 45 days of the service of the petition.

Proposed law changes this time period from 45 days to 30 days.

Present law provides that a maximum of two extensions of 30 days may be granted by the court upon written request by the state for cause shown and that the court shall set a hearing within 45 days of response.

Proposed law changes the maximum amount of extensions from two to one, changes the time period from 30 days to 15 days, and changes the time period to set a hearing from 45 days to 30 days.

Present law provides that after a contradictory hearing, the court shall render a decision as soon as practical, and that the court shall order payment to the petitioner from the Innocence Compensation Fund.

Proposed law changes the time period for the court to render a decision from as soon as practical to within 30 days of the contradictory hearing. Further amends present law to provide that the payment to the petitioner from the Innocence Compensation Fund shall be ordered immediately.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 15:572.8(E), (F), and (H)(1))