

2025 Regular Session

HOUSE BILL NO. 101

BY REPRESENTATIVE MUSCARELLO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PROCEDURE: Provides relative to compensation for wrongful conviction and imprisonment

1 AN ACT

2 To amend and reenact R.S. 15:572.8(A)(1) and (2), (B) through (E), (H)(1) and (3), (I), (K),  
3 and (N) through (R) and to repeal R.S. 15:572.8(S), relative to compensation for  
4 wrongful conviction; to provide for evidence standards; to provide for funding; to  
5 provide for remedies; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:572.8(A)(1) and (2), (B) through (E), (H)(1) and (3), (I), (K), and  
8 (N) through (R) are hereby amended and reenacted to read as follows:

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

11 A. A petitioner is entitled to compensation in accordance with this Section  
12 if he has served in whole or in part a sentence of imprisonment under the laws of this  
13 state for a crime for which he was convicted and:

14 (1) The conviction of the petitioner has been reversed or vacated pursuant  
15 to a specific finding of factual innocence under the provisions of Code of Criminal  
16 Procedure Article 926.2 following a contradictory hearing; and

17 (2) The petitioner has proven by clear and convincing, ~~scientific or non-~~  
18 ~~scientific evidence~~ new, reliable, and noncumulative evidence that would be legally  
19 admissible at trial, that was not known or discoverable at or prior to trial, and that is  
20 either: (a) scientific, forensic, physical, or nontestimonial documentary evidence,

1 or (b) testimonial evidence that is corroborated by scientific, forensic, physical, or  
2 nontestimonial documentary evidence that was not known or discoverable at or prior  
3 to trial that he is factually innocent of the crime for which he was convicted.

4 B. For the purposes of this Section, "factual innocence" means that the  
5 petitioner did not commit the crime for which he was convicted and incarcerated nor  
6 did he commit any crime based upon the same set of facts used in his original  
7 conviction and, had the new evidence been presented at trial, no rational juror would  
8 have found the petitioner guilty beyond a reasonable doubt of either the offense of  
9 conviction or any felony offense that was a responsive verdict to the offense of  
10 conviction at the time of the conviction.

11 C. All petitions for compensation as provided in this Section shall be filed  
12 in the civil district court in the jurisdiction in which the original conviction was  
13 obtained, hereinafter referred to as "the court", and shall be governed by procedures  
14 outlined herein and randomly re-allotted by the court.

15 D. The court shall render a final decision on all petitions for compensation  
16 filed in accordance with the provisions of this Section and shall be tried by the judge  
17 alone. ~~The court may consider any relevant evidence regardless of whether it was~~  
18 ~~admissible in, or excluded from, the criminal trial in which the petitioner was~~  
19 ~~convicted.~~

20 E. The ~~attorney general~~ district attorney of the parish in which the conviction  
21 was obtained shall represent the state of Louisiana in these proceedings unless the  
22 attorney general prosecuted the original case. If the attorney general prosecuted the  
23 original case, the attorney general shall represent the state of Louisiana in these  
24 proceedings. The court shall serve a copy of any petition filed pursuant to this  
25 Section upon the attorney general and the district attorney of the parish in which the  
26 conviction was obtained and upon the court that vacated or reversed the petitioner's  
27 conviction or upon the pardon board if the conviction was vacated through executive  
28 clemency within fifteen days of receiving such petition. Upon receipt of the petition  
29 and of confirmation of service on the attorney general's and district attorney's office,

1 the court shall ask the state, through the attorney general's and district attorney's  
 2 office, to respond to the petition within forty-five days of service of the petition. A  
 3 maximum of two extensions of ~~thirty~~ sixty days may be granted by the court upon  
 4 written request by the state for cause shown. The court shall set a ~~hearing~~ discovery  
 5 schedule within forty-five days of the attorney general's or district attorney's  
 6 response. Upon conclusion of discovery, the court shall set a reasonable hearing date  
 7 to determine the matter on its merits. Unless otherwise provided herein, the  
 8 ~~Louisiana rules of evidence~~ Code of Civil Procedure and the Code of Evidence shall  
 9 apply.

10 \* \* \*

11 H.(1) After a contradictory hearing with the attorney general or district  
 12 attorney, the court shall render a decision as soon as practical. If, from its findings  
 13 of fact, the court determines that the petitioner is entitled to compensation because  
 14 he is found to be factually innocent of the crime of which he was convicted, it shall  
 15 determine the amount of compensation due in accordance with the provisions of this  
 16 Section, and it shall order payment to the petitioner from the ~~Innocence~~  
 17 ~~Compensation Fund which shall be created specifically for the administration of~~  
 18 ~~awards under this Section~~ parish in which the conviction was obtained. No state  
 19 agency, political subdivision, constitutional office, nor employee thereof shall be  
 20 liable for any payment pursuant to this Section.

21 \* \* \*

22 (3) In addition to the compensation provided in Paragraph (2) of this  
 23 Subsection, the court shall order that the petitioner receive eighty thousand dollars  
 24 total in compensation for the loss of life opportunities resulting from the time spent  
 25 incarcerated and to cover expenses relating to job skills training, education, housing,  
 26 and any other services the wrongfully convicted person may need. Any petitioner  
 27 who has been awarded compensation pursuant to the provisions of this Paragraph  
 28 and who has received a portion of the compensation prior to August 1, 2019, may  
 29 file a petition prior to August 1, 2020, seeking the remainder of the compensation,

1 not to exceed eighty thousand dollars total, authorized by the provisions of this  
2 Paragraph or be forever barred from filing the petition. Compensation ordered  
3 pursuant to the provisions of this Paragraph shall be paid ~~from the Innocence~~  
4 ~~Compensation Fund~~ by the parish in which the conviction was obtained. No state  
5 agency, political subdivision, constitutional office, nor employee thereof shall be  
6 liable for payment pursuant to this Section.

7 \* \* \*

8 I. Any petitioner claiming compensation in accordance with this Section  
9 based on a disposition enumerated in Paragraph (A)(1) of this Section that occurs on  
10 or after September 1, 2005, shall file a petition within ~~two years~~ one year from the  
11 date on which the conviction was reversed or vacated.

12 \* \* \*

13 K. This Section shall apply to all petitions for compensation from petitioners  
14 who have been convicted of and imprisoned for crimes of which they are factually  
15 innocent. ~~Petitions which are predicated on convictions involving willful~~  
16 ~~misconduct on the part of state actors are not limited to the recovery provided in this~~  
17 ~~Section.~~

18 \* \* \*

19 ~~N.(1) There is hereby established in the state treasury a special fund to be~~  
20 ~~known as the Innocence Compensation Fund, hereinafter referred to as the "fund".~~  
21 ~~The fund shall be administered by the Louisiana Commission on Law Enforcement~~  
22 ~~and Administration of Criminal Justice. The source of monies for the fund shall be~~  
23 ~~appropriations, donations, grants, and other monies which may become available for~~  
24 ~~the purposes of the fund. Any judgment rendered pursuant to this Section shall be~~  
25 ~~payable only from the fund established herein. No state agency, political~~  
26 ~~subdivision, constitutional office, nor employee thereof shall be liable for any~~  
27 ~~payment ordered pursuant to this Section.~~

28 (2) ~~The monies in the fund shall be subject to appropriation and may only~~  
29 ~~be used as provided in Paragraph (3) of this Subsection. The monies in the fund~~

1 shall be invested by the treasurer in the same manner as monies in the state general  
2 fund, and interest earnings shall be deposited in and credited to the fund. All  
3 unexpended or unencumbered monies remaining in the fund at the end of the fiscal  
4 year shall remain to the credit of the fund.

5 ~~(3) Monies appropriated from the fund shall be used exclusively to~~  
6 ~~compensate petitioners who are found to be factually innocent of the crime of which~~  
7 ~~they were convicted as provided in this Section.~~

8 Ø.N. In the event that compensation is awarded to a petitioner pursuant to  
9 this Section in the amount in excess of one hundred thousand dollars, the court may  
10 fund on behalf of such petitioner an annuity contract to be secured by the petitioner,  
11 provided that:

12 (1) Such contract shall only be secured from an insurance company licensed  
13 in accordance with the laws of the state of Louisiana whose claims-paying ability is  
14 rated as superior or excellent by at least two nationally recognized rating services;  
15 and

16 (2) The contract, by its terms, cannot be sold, transferred, assigned,  
17 discounted, or used as security for a loan; and

18 (3) The contract provides for survivors benefits; and

19 (4) The remainder of the compensation awarded shall be distributed evenly  
20 over a period of five years.

21 P.O. The court shall annually prepare and submit a report for the prior  
22 calendar year to the judicial administrator of the Louisiana Supreme Court, on or  
23 before the first day of March, commencing in 2008, including the number of awards  
24 and the total amount of funds distributed in accordance with this Section. The  
25 judicial administrator of the Louisiana Supreme Court shall annually prepare and  
26 submit a report for the prior calendar year to the governor, attorney general, and  
27 legislature, on or before the first day of April, commencing in 2008, including the  
28 number of awards and the total amount of funds distributed in accordance with this  
29 Section.

1           ~~Q.P.~~ Beginning July 1, 2022, any petitioner who has been awarded  
2 compensation by the court pursuant to the provisions of this Section, on or after  
3 September 1, 2005, and prior to July 1, 2022, may file a petition seeking  
4 supplemental compensation in the amount authorized by the provisions of  
5 Subparagraph (H)(2)(b) of this Section. The petitioner shall file a petition seeking  
6 supplemental compensation on or before July 1, 2023, or be forever barred from  
7 filing a supplemental petition. Any compensation awarded pursuant to this  
8 Subsection shall be awarded at a rate of forty thousand dollars annually.

9           ~~R.Q.~~ The Louisiana Commission on Law Enforcement and Administration  
10 of Criminal Justice shall prepare a report annually for the prior calendar year and  
11 submit it to the governor, attorney general, and legislature, on or before the first day  
12 of April, commencing in 2013, including the number of awards and the total amount  
13 of funds distributed in accordance with the provisions of this Section.

14           R. Compensation under the provisions of this Section is intended to be the  
15 exclusive remedy for any alleged wrongful conviction complained of in a petition  
16 filed pursuant to this Section, therefore all of the following shall apply:

17           (1) The filing of a petition pursuant to this Section shall act as a waiver of  
18 and a bar to any legal action involving the same subject matter. A person who files  
19 a petition pursuant to this Section may not bring or maintain an action involving the  
20 same subject matter, including an action involving the person's arrest, conviction, or  
21 length of confinement, against the state, any state agency, any political subdivision,  
22 any local government entity, or any current or former official or employee of the  
23 state, a state agency, a political subdivision, or any local government entity.

24           (2) Additionally, and independently, receipt of any compensation or payment  
25 pursuant to this Section shall act as a waiver of and a bar to any legal action  
26 involving the same subject matter. A person who receives any compensation or  
27 payment pursuant to this Section may not bring or maintain an action involving the  
28 same subject matter, including an action involving the person's arrest, conviction, or  
29 length of confinement, against the state, any state agency, any political subdivision,

1 any local government entity, or any current or former official or employee of the  
2 state, a state agency, a political subdivision, or any local government entity.

3 (3) Additionally, and independently, any person who obtains a judgment in  
4 his favor in any legal action against the state, any state agency, any political  
5 subdivision, any local government entity, or any current or former official or  
6 employee of the state, a state agency, a political subdivision, or a local government  
7 entity, may not receive any compensation or payment pursuant to this Section for an  
8 alleged wrongful conviction involving the same subject matter as the legal action.

9 \* \* \*

10 Section 2. R.S. 15:572.8(S) is hereby repealed in its entirety.

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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)]

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HB 101 Original

2025 Regular Session

Muscarello

**Abstract:** Provides relative to wrongful conviction procedures.

Present law provides that a person is entitled to compensation for wrongful conviction when his conviction has been reversed or vacated, and he has proven his innocence through clear and convincing evidence.

Proposed law provides that the petitioner is entitled to compensation when the conviction is reversed or vacated pursuant to a finding of factual innocence pursuant to the Code of Criminal Procedure and that innocence is proven with evidence that was not known or discoverable prior to trial.

Present law provides that during a contradictory hearing, the court may consider any relevant evidence, whether it was admissible in or excluded from the criminal trial.

Proposed law removes that provision of present law.

Present law provides that the attorney general shall represent the state of Louisiana in such proceedings.

Proposed law provides that the district attorney of the parish shall represent the state unless the attorney general prosecuted the criminal case.

Present law requires that notice of the petition be sent to the attorney general's office.

Proposed law requires that notice of the petition be sent also to the district attorney's office.

Proposed law increases the amount of time for which a court may grant extensions for the state from 30 days to 60 days.

Present law provides that compensation for a wrongful conviction be paid from the Innocence Compensation Fund.

Proposed law provides that compensation for a wrongful conviction be paid by the parish in which the conviction was obtained, and that the state and its employees are not liable for any such payment.

Proposed law changes the amount of time a petitioner may claim compensation after his conviction was reversed or vacated from two years to one year.

Present law provides that petitions based on convictions involving willful misconduct by the state are not limited to the recovery provided in present law.

Proposed law provides that compensation provided by present law is the exclusive remedy for any alleged wrongful conviction and that filing a petition pursuant to present law constitutes a waiver and bar to any legal action regarding the same matter.

Proposed law provides that any person who obtains a judgment against the state may not receive compensation for a wrongful conviction involving the same matter.

(Amends R.S. 15:572.8(A)(1) and (2), (B)-(E), (H)(1) and (3), (I), (K), and (N)-(R); Repeals R.S. 15:572.8(S))