



West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title. Criminal Procedure ([Refs & Annos](#))

▢ [Chapter 5](#). Reprieve, Pardon, and Parole ([Refs & Annos](#))

▢ [Part I](#). Reprieve and Pardon

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

A. A petitioner is entitled to compensation in accordance with this Section if he 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 and:

(1) The conviction of the petitioner has been reversed or vacated; and

(2) The petitioner has proven by clear and convincing scientific or non-scientific evidence that he is factually innocent of the crime for which he was convicted.

B. For the purposes of this Section, “factual innocence” means that the petitioner did not commit the crime for which he was convicted and incarcerated nor did he commit any crime based upon the same set of facts used in his original conviction.

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

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

E. The attorney general shall represent the state of Louisiana in these proceedings. The court shall serve a copy of any petition filed pursuant to this Section upon the attorney general and the district attorney of the parish in which the conviction was obtained and upon the court that vacated or reversed the petitioner's conviction or upon the pardon board if the conviction was vacated through executive clemency within fifteen days of receiving such petition. Upon receipt of the petition and of confirmation of service on the attorney general's office, the court shall ask the state, through the attorney general's office, to respond to the petition within forty-five days of service of the petition. A maximum of two extensions of thirty days may be granted by the court upon written request by the state for cause shown. The court shall set a hearing within forty-five days of the attorney general's response. Unless otherwise provided herein, the Louisiana rules of evidence shall apply.

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

G. The petitioner shall attach to the petition:

- (1) A copy of the judgment, opinion, or pardon that vacated the petitioner's conviction and sentence.
- (2) A copy of the verdict of acquittal or of the entry of an order of nolle prosequi, or other action of the state declining to re-prosecute the petitioner.
- (3) A record from the Department of Public Safety and Corrections of the time the petitioner spent in the custody of the Department of Public Safety and Corrections.

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

(2) Compensation shall be calculated at a rate of fifteen thousand dollars per year incarcerated not to exceed a maximum total amount of one hundred fifty thousand dollars. As compensation for the loss of life opportunities resulting from the time spent incarcerated, the court shall also review requests for payment and order payment, not to exceed forty thousand dollars, which the court finds reasonable and appropriate from the Innocence Compensation Fund to:

- (a) Pay the costs of job-skills training for one year.
- (b) Pay for appropriate medically necessary medical and counseling services for three years to the petitioner at a mutually agreed upon location at no charge to the petitioner, but only if such services are not available from a state or other public facility, clinic, or office that is reasonably accessible to the petitioner.
- (c)(i) Provide expenses for tuition and fees at any community college or unit of the public university system of the state of Louisiana.
- (ii) State aid in accordance with this Subparagraph shall include assistance in meeting any admission standards or criteria required at any of the applicable institutions, including but not limited to assistance in satisfying requirements for a certificate of equivalency of completion of secondary education and assistance in completing any adult education program or courses.

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

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

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

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

J. Any petitioner claiming compensation in accordance with this Section and based on a disposition enumerated in Paragraph (A)(1) of this Section that occurred prior to September 1, 2005, shall file a petition on or before September 1, 2008, or be forever barred from filing a petition.

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

L. The following shall not be a bar to a petition brought pursuant to this Section:

(1) The judgment of conviction in the trial that resulted in the petitioner's imprisonment.

(2) An indictment, information, complaint, or other formal accusation.

M. Any finding by the court shall be inadmissible in any judicial proceeding and shall not form the basis for any cause of action by the petitioner or any other person.

N. (1) There is hereby established a special fund in the state treasury to be known as the Innocence Compensation Fund, hereinafter referred to as the "fund". The source of monies for the fund shall be appropriations, donations, grants, and other monies which may become available for the purposes of the fund. Any judgment rendered pursuant to this Section shall be payable only from the fund established herein. No state agency, polit-

ical subdivision, constitutional office, nor employee thereof shall be liable for any payment ordered pursuant to this Section.

(2) The monies in the fund shall be subject to appropriation and may only be used as provided in Paragraph (3) of this Subsection. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund, and interest earnings shall be deposited in and credited to the fund. All unexpended or unencumbered monies remaining in the fund at the end of the fiscal year shall remain to the credit of the fund.

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

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

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

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

(3) The contract provides for survivors benefits; and

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

P. The court shall annually prepare and submit a report for the prior calendar year to the judicial administrator of the Louisiana Supreme Court, on or before the first day of March, commencing in 2008, including the number of awards and the total amount of funds distributed in accordance with this Section. The judicial administrator of the Louisiana Supreme Court shall annually prepare and submit a report for the prior calendar year to the governor and legislature, on or before the first day of April, commencing in 2008, including the number of awards and the total amount of funds distributed in accordance with this Section.

CREDIT(S)

Added by [Acts 2005, No. 486, § 1, eff. Sept. 1, 2005](#). Amended by [Acts 2007, No. 262, § 1](#); [Acts 2008, No. 220, § 6, eff. June 14, 2008](#).

Current through the 2009 Regular Session.

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