

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 384

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE IDAHO WRONGFUL CONVICTION ACT; AMENDING TITLE 6, IDAHO CODE,  
2 BY THE ADDITION OF A NEW CHAPTER 33, TITLE 6, IDAHO CODE, TO PROVIDE  
3 A SHORT TITLE, TO PROVIDE FOR A CLAIM OF COMPENSATION FOR A WRONGFUL  
4 CONVICTION, TO PROVIDE CERTAIN PROCEDURES AND CRITERIA FOR A CLAIM,  
5 TO PROVIDE FOR AN APPEAL, TO PROVIDE CERTAIN IMMUNITY, TO PROVIDE FOR  
6 CERTAIN COMPENSATION AND DAMAGES, TO PROVIDE CERTAIN RESTRICTIONS ON  
7 DAMAGES, TO PROVIDE THAT CERTAIN DAMAGES SHALL BE TAX-EXEMPT, TO PRO-  
8 VIDE FOR A CERTIFICATE OF INNOCENCE AND EXPUNGEMENT OF CERTAIN RECORDS,  
9 AND TO PROVIDE FOR THE CREATION OF THE INNOCENCE FUND.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended  
13 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
14 ter 33, Title 6, Idaho Code, and to read as follows:

15 CHAPTER 33

16 IDAHO WRONGFUL CONVICTION ACT

17 6-3301. SHORT TITLE. This chapter shall be known and may be cited as  
18 the "Idaho Wrongful Conviction Act."

19 6-3302. CLAIM OF COMPENSATION FOR WRONGFUL CONVICTION. (1) As used in  
20 this chapter, "claimant" means a person convicted and subsequently impris-  
21 oned for one (1) or more crimes that such person did not commit.

22 (2) A claimant who is not ineligible under subsection (3) of this sec-  
23 tion may bring a civil action for his wrongful conviction against this state  
24 in a district court seeking damages or other relief provided by section  
25 6-3303, Idaho Code. The claimant shall prevail if he shows by a preponder-  
26 ance of evidence the following requirements:

27 (a) The claimant was convicted of a felony in this state and subse-  
28 quently imprisoned;

29 (b) The claimant did not commit the crime for which he was convicted,  
30 and the claimant:

31 (i) Was not an accessory or accomplice to the acts that were the  
32 basis of the conviction;

33 (ii) Did not commit the acts that were the basis of the conviction;  
34 and

35 (iii) Did not aid, abet, or act as an accomplice or accessory to a  
36 person who committed the acts that were the basis of the convic-  
37 tion;

38 (c) The claimant was not convicted of an offense necessarily included  
39 in the offense charged;

40 (d) The following occurred:

1 (i) The claimant's conviction was reversed or vacated, and either  
2 the claimant was not retried and the charges were dismissed, or the  
3 claimant was retried and was found not guilty; or

4 (ii) The claimant was pardoned by the commission of pardons and  
5 parole on the grounds that the claimant was innocent; and

6 (iii) The basis for reversing or vacating the conviction was not  
7 legal error that was unrelated to his innocence; and

8 (e) The claimant did not commit or suborn perjury, fabricate evidence,  
9 or by the claimant's own conduct cause or bring about the conviction.  
10 Neither a confession nor admission later found to be false, or a guilty  
11 plea, shall constitute committing or suborning perjury, fabricating  
12 evidence, or causing or bringing about the conviction under this sub-  
13 section.

14 (3) A court shall not award, and a claimant shall not receive, compen-  
15 sation for any period of imprisonment during which the claimant was concu-  
16 rrently serving a sentence for a conviction of another offense for which the  
17 claimant was lawfully convicted and imprisoned.

18 (4) The court, in exercising its discretion as permitted by law regard-  
19 ing the weight and admissibility of evidence submitted pursuant to this sec-  
20 tion, may, in the interest of justice, give due consideration to difficul-  
21 ties of proof caused by the passage of time, the death or unavailability of  
22 witnesses, the destruction of evidence, or other factors not caused by such  
23 persons or those acting on their behalf.

24 (5) (a) The suit, accompanied by a statement of the facts concerning the  
25 claim for damages, verified in the manner provided for the verification  
26 of complaints in the rules of civil procedure, shall be brought within a  
27 period of two (2) years after:

28 (i) The conviction was reversed or vacated and the charges were  
29 dismissed;

30 (ii) The claimant was retried and found not guilty; or

31 (iii) The claimant was pardoned on the grounds he was innocent.

32 (b) A claimant convicted, imprisoned, and released from custody before  
33 July 1, 2020, must commence an action under this section no later than  
34 July 1, 2022.

35 (6) All pleadings submitted pursuant to this section shall be cap-  
36 tioned, "In the matter of the wrongful conviction of \_\_\_\_\_."

37 (7) Any claim filed pursuant to this section shall be served on the at-  
38 torney general in accordance with the rules of civil procedure.

39 (8) The claimant is entitled to a jury trial upon demand. If a jury  
40 trial is not demanded, it may be tried by the court.

41 (9) A claimant shall be entitled to a hearing in district court no later  
42 than one hundred twenty (120) days after the filing of a claim.

43 (10) For any person who was sentenced to capital punishment and was sub-  
44 sequently wrongfully executed, a claim may be filed pursuant to this section  
45 by the person who is most closely related by blood, adoption, marriage, or  
46 domestic partnership within the first degree of consanguinity or affinity,  
47 or by a grandchild.

48 (11) The decision of the district court made pursuant to subsection (2)  
49 of this section may be appealed directly to the Idaho supreme court pursuant  
50 to the rules of civil procedure.

1 (12) All provisions of existing law relating to the absolute or quali-  
2 fied immunity of any judicial officer, prosecutor, or law enforcement offi-  
3 cer, including all applicable provisions of federal and state law, shall ap-  
4 ply to an action brought pursuant to the provisions of this section.

5 6-3303. COMPENSATION. (1) In an action brought pursuant to section  
6 6-3302, Idaho Code, damages awarded shall be:

7 (a) (i) Sixty thousand dollars (\$60,000) for each year of impris-  
8 onment; or

9 (ii) Seventy-five thousand dollars (\$75,000) for each year of im-  
10 prisonment if the claimant was imprisoned on death row; and

11 (b) No less than twenty-five thousand dollars (\$25,000) for each year  
12 the person was on parole or no less than twenty-five thousand dollars  
13 (\$25,000) for each year the person was required to register as a sex of-  
14 fender, whichever period of time was greater.

15 (2) Any award of damages pursuant to subsection (1) of this section  
16 must be submitted to the board of examiners for review. The board of ex-  
17 aminers shall submit the award to the state controller for payment to the  
18 claimant from the innocence fund created pursuant to section 6-3305, Idaho  
19 Code. Damages shall be paid as a combination of an initial payment not to  
20 exceed one hundred thousand dollars (\$100,000) or twenty-five percent (25%)  
21 of the award, whichever is greater, and the remainder as an annuity not to  
22 exceed eighty-five thousand dollars (\$85,000) per year. The claimant shall  
23 designate a beneficiary or beneficiaries for the annuity by filing such des-  
24 ignation with the court. The court may order that the award be paid in one  
25 lump sum if the court finds that it is in the best interests of the claimant.

26 (3) In addition to the damages awarded pursuant to subsection (1) of  
27 this section, the claimant:

28 (a) Shall be entitled to receive reasonable attorney's fees and costs  
29 incurred in the action brought pursuant to this chapter not to exceed a  
30 total of twenty-five thousand dollars (\$25,000), unless a greater rea-  
31 sonable total is authorized by the court upon a finding of good cause  
32 shown; and

33 (b) May also be awarded other nonmonetary relief as sought in the com-  
34 plaint, including but not limited to health insurance, reimbursement of  
35 out-of-pocket medical expenses, mental health counseling, tuition as-  
36 sistance, housing assistance, job assistance, and personal financial  
37 literacy assistance, as appropriate;

38 (4) If a claimant has in a separate civil action related to the wrong-  
39 ful conviction won a monetary judgement against, or entered into a settle-  
40 ment agreement with, the state or any political subdivision, the amount of  
41 any such award or settlement collected by the claimant, less attorney's fees  
42 and litigation costs, shall be deducted from the sum of money to which the  
43 claimant is entitled to under this section. If a claimant first receives  
44 compensation under this section and then in a separate civil action wins a  
45 monetary judgement against, or enters into a settlement agreement with, the  
46 state or any political subdivision related to the wrongful conviction, the  
47 claimant shall reimburse the state. The reimbursement shall be for the sum  
48 of the monetary payment awarded under this section, less attorney's fees and

1 litigation costs, up to the amount of the award or settlement in the civil ac-  
2 tion.

3 (5) Any damages awarded pursuant to subsection (1) of this section  
4 shall be tax-exempt in the state of Idaho.

5 6-3304. CERTIFICATE OF INNOCENCE -- EXPUNGEMENT. (1) If the court  
6 finds that the claimant is entitled to a judgment pursuant to section 6-3302,  
7 Idaho Code, it shall enter a certificate of innocence finding that the  
8 claimant was innocent of all crimes for which the claimant was mistakenly  
9 convicted.

10 (2) Upon entry of the certificate of innocence, the court shall order  
11 the associated convictions and arrest records expunged and purged from all  
12 applicable state and federal systems in accordance with court rules. The  
13 Idaho supreme court shall promulgate rules to direct how such records will be  
14 expunged.

15 6-3305. INNOCENCE FUND CREATED. There is hereby created in the state  
16 treasury the innocence fund. The fund shall consist of moneys that may be  
17 provided by legislative appropriation and any reimbursements made to the  
18 state by claimants. The state treasurer shall invest the idle moneys of the  
19 fund, and the interest earned on such investments shall be retained by the  
20 fund. Moneys in the fund are continuously appropriated to be used solely for  
21 carrying out the provisions of this chapter.