

Moved by Lent

Seconded by Lakey

IN THE SENATE
SENATE AMENDMENT TO H.B. NO. 384

AMENDMENT TO SECTION 1

1 On page 1 of the printed bill, delete lines 22 through 40, and insert:

2 "(2) If he meets the requirements of this chapter, a claimant may bring
3 a civil action against the state of Idaho for wrongful conviction. The
4 claimant shall prevail if he establishes each of the following requirements
5 by a preponderance of the evidence:
6

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

9 (b) The claimant did not commit the crime for which he was convicted;

10 (c) The claimant did not commit the acts that were the basis of the con-
11 viction;

12 (d) The claimant did not aid, abet, or act as an accomplice or accessory
13 to either the acts or to a person who committed the acts that were the
14 basis for the conviction;

15 (e) The claimant did not commit an included offense of the crime for
16 which he was imprisoned;

17 (f) The claimant establishes that either of the following occurred:

18 (i) The claimant's conviction was reversed or vacated and either
19 the claimant was not retried and the charges were dismissed or the
20 claimant was retried and was found not guilty; or

21 (ii) The claimant was pardoned by the Idaho commission of pardons
22 and parole or the governor on the grounds that the claimant was in-
23 nocent; and

24 (g) The claimant establishes that the basis for reversing or vacating
25 the conviction was not legal error unrelated to his factual innocence.

26 (3) A claimant shall not prevail on a claim brought pursuant to this
27 chapter if the state shows by a preponderance of the evidence that a claimant
28 pled guilty with the specific intent to protect another party from prosecu-
29 tion for the underlying conviction that forms the basis for the claim."

30 On page 2, delete lines 1 through 23; in line 24, delete "5" and insert:
31 "4"; also in line 24, delete ", accompanied by a statement of the facts con-
32 cerning the"; delete line 25; in line 26, delete "of complaints in the rules
33 of civil procedure,"; delete lines 35 through 40; in line 41, delete "9" and
34 insert: "5"; also in line 41, delete "no later"; in line 42, delete "than
35 one hundred twenty (120) days" and insert: "as expeditiously as possible";
36 delete lines 43 through 47, and insert:

37 "(6) If a person dies prior to filing or during the pendency of a claim
38 under this section, the person's estate may file or maintain a claim pursuant
39 to this section.";

40 and delete lines 48 through 50.

1 On page 3, in line 1, delete "12" and insert: "7"; also in line 1, delete
2 "the"; in line 2, delete "of any judicial officer, prosecutor, or law en-
3 forcement offi-"; in line 3, delete "cer, including all applicable provi-
4 sions of federal and state law,"; delete lines 15 through 25, and insert:

5 "(2) Compensation awarded under subsection (1) of this section shall be
6 computed on a pro rata basis, with damages computed according to the number
7 of days the claimant was imprisoned, on parole, or required to register as
8 a sex offender due to the conviction that is the subject of the action. For
9 purposes of the pro rata calculation, three hundred sixty-five (365) days
10 equals one (1) year. The burden is on the claimant to establish the number of
11 days he was imprisoned, on parole, or required to register as a sex offender.

12 (3) The claimant must establish the damages he is seeking under subsec-
13 tions (1), (2), and (4) of this section and the basis for those damages. Any
14 award of damages pursuant to subsections (1) and (2) of this section must be
15 submitted to the board of examiners for review. Awards shall be paid from
16 the innocence fund created pursuant to section 6-3305, Idaho Code. Damages
17 shall be paid as a combination of an initial payment not to exceed one hun-
18 dred thousand dollars (\$100,000) or twenty-five percent (25%) of the award,
19 whichever is greater, and the remainder as an annual payment not to exceed
20 eighty-five thousand dollars (\$85,000) per year until the damage award is
21 paid in full. The claimant shall designate a beneficiary or beneficiaries
22 for the annual payment by filing such designation with the state. The award
23 may be paid in one (1) lump sum if the court finds that it is in the best in-
24 terests of the claimant. Any award of damages shall not accrue post-judgment
25 interest, and the provisions of section 28-22-104, Idaho Code, shall not
26 apply to such damages. A court shall not award, and a claimant shall not re-
27 ceive, compensation for any period of imprisonment during which the claimant
28 was serving a sentence for a conviction of another offense for which the
29 claimant was lawfully convicted and imprisoned. The claimant shall not re-
30 ceive compensation for any period of time that he was on parole or required to
31 register as a sex offender during which the claimant was paroled or required
32 to register as a sex offender for another offense for which the claimant was
33 lawfully convicted.";

34 in line 26, delete "3" and insert: "4"; in line 27, following "claimant" in-
35 sert: "may be entitled to the following"; delete lines 28 through 37, and in-
36 sert:

37 "(a) Reasonable attorney's fees and costs incurred in the action
38 brought pursuant to this chapter not to exceed a total of twenty-five
39 thousand dollars (\$25,000), unless a greater reasonable total is autho-
40 rized by the court upon a finding of good cause shown;

41 (b) Reentry services offered through the department of correction, as
42 applicable;

43 (c) Two (2) years of state-funded medical insurance for each year of
44 imprisonment, up to a maximum of eight (8) years of insurance coverage,
45 for state-funded medical insurance as described in section 67-5760,
46 Idaho Code, or other equivalent medical insurance if state-funded medi-
47 cal insurance is not available; and

48 (d) A tuition waiver at an Idaho public postsecondary institution for
49 thirty (30) credit hours for each year of imprisonment, up to a maximum
50 of one hundred twenty (120) credit hours.";

1 and in line 38, delete "4" and insert: "5".

2 On page 4, in line 3, delete "5" and insert: "6"; in line 5, delete "--
3 EXPUNGEMENT"; also in line 5, delete "(1)"; and delete lines 10 through 14.

4 CORRECTION TO TITLE

5 On page 1, in line 8, following "DAMAGES," insert: "TO PROVIDE FOR COM-
6 PUTATION OF DAMAGES, TO PROVIDE FOR HOW DAMAGES ARE PAID,"; and in line 9,
7 delete "AND EXPUNGEMENT OF CERTAIN RECORDS".