

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 384, As Amended in the Senate

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 A  
3 SHORT TITLE, TO PROVIDE FOR A CLAIM OF COMPENSATION FOR A WRONGFUL CON-  
4 VICTION, TO PROVIDE CERTAIN PROCEDURES AND CRITERIA FOR A CLAIM, TO PRO-  
5 VIDE FOR AN APPEAL, TO PROVIDE CERTAIN IMMUNITY, TO PROVIDE FOR CERTAIN  
6 COMPENSATION AND DAMAGES, TO PROVIDE CERTAIN RESTRICTIONS ON DAMAGES,  
7 TO PROVIDE FOR COMPUTATION OF DAMAGES, TO PROVIDE FOR HOW DAMAGES ARE  
8 PAID, TO PROVIDE THAT CERTAIN DAMAGES SHALL BE TAX-EXEMPT, TO PROVIDE  
9 FOR A CERTIFICATE OF INNOCENCE, AND TO PROVIDE FOR THE CREATION OF THE  
10 INNOCENCE FUND.  
11

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

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

16 CHAPTER 33

17 IDAHO WRONGFUL CONVICTION ACT

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

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

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

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

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

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

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

38 (i) The claimant's conviction was reversed or vacated and either  
39 the claimant was not retried and the charges were dismissed or the  
40 claimant was retried and was found not guilty; or

- 1 (ii) The claimant was pardoned by the Idaho commission of pardons  
2 and parole or the governor on the grounds that the claimant was in-  
3 nocent; and
- 4 (g) The claimant establishes that the basis for reversing or vacating  
5 the conviction was not legal error unrelated to his factual innocence.
- 6 (3) A claimant shall not prevail on a claim brought pursuant to this  
7 chapter if the state shows by a preponderance of the evidence that a claimant  
8 pled guilty with the specific intent to protect another party from prosecu-  
9 tion for the underlying conviction that forms the basis for the claim.
- 10 (4) (a) The suit shall be brought within a period of two (2) years after:  
11 (i) The conviction was reversed or vacated and the charges were  
12 dismissed;  
13 (ii) The claimant was retried and found not guilty; or  
14 (iii) The claimant was pardoned on the grounds he was innocent.
- 15 (b) A claimant convicted, imprisoned, and released from custody before  
16 July 1, 2020, must commence an action under this section no later than  
17 July 1, 2022.
- 18 (5) A claimant shall be entitled to a hearing in district court as expe-  
19 ditiously as possible after the filing of a claim.
- 20 (6) If a person dies prior to filing or during the pendency of a claim  
21 under this section, the person's estate may file or maintain a claim pursuant  
22 to this section.
- 23 (7) All provisions of existing law relating to absolute or qualified im-  
24 munity shall apply to an action brought pursuant to the provisions of this  
25 section.

- 26 6-3303. COMPENSATION. (1) In an action brought pursuant to section  
27 6-3302, Idaho Code, damages awarded shall be:
- 28 (a) (i) Sixty thousand dollars (\$60,000) for each year of impris-  
29 onment; or  
30 (ii) Seventy-five thousand dollars (\$75,000) for each year of im-  
31 prisonment if the claimant was imprisoned on death row; and
- 32 (b) No less than twenty-five thousand dollars (\$25,000) for each year  
33 the person was on parole or no less than twenty-five thousand dollars  
34 (\$25,000) for each year the person was required to register as a sex of-  
35 fender, whichever period of time was greater.
- 36 (2) Compensation awarded under subsection (1) of this section shall be  
37 computed on a pro rata basis, with damages computed according to the number  
38 of days the claimant was imprisoned, on parole, or required to register as  
39 a sex offender due to the conviction that is the subject of the action. For  
40 purposes of the pro rata calculation, three hundred sixty-five (365) days  
41 equals one (1) year. The burden is on the claimant to establish the number of  
42 days he was imprisoned, on parole, or required to register as a sex offender.
- 43 (3) The claimant must establish the damages he is seeking under subsec-  
44 tions (1), (2), and (4) of this section and the basis for those damages. Any  
45 award of damages pursuant to subsections (1) and (2) of this section must be  
46 submitted to the board of examiners for review. Awards shall be paid from  
47 the innocence fund created pursuant to section 6-3305, Idaho Code. Damages  
48 shall be paid as a combination of an initial payment not to exceed one hun-  
49 dred thousand dollars (\$100,000) or twenty-five percent (25%) of the award,

1 whichever is greater, and the remainder as an annual payment not to exceed  
2 eighty-five thousand dollars (\$85,000) per year until the damage award is  
3 paid in full. The claimant shall designate a beneficiary or beneficiaries  
4 for the annual payment by filing such designation with the state. The award  
5 may be paid in one (1) lump sum if the court finds that it is in the best in-  
6 terests of the claimant. Any award of damages shall not accrue post-judgment  
7 interest, and the provisions of section 28-22-104, Idaho Code, shall not  
8 apply to such damages. A court shall not award, and a claimant shall not re-  
9 ceive, compensation for any period of imprisonment during which the claimant  
10 was serving a sentence for a conviction of another offense for which the  
11 claimant was lawfully convicted and imprisoned. The claimant shall not re-  
12 ceive compensation for any period of time that he was on parole or required to  
13 register as a sex offender during which the claimant was paroled or required  
14 to register as a sex offender for another offense for which the claimant was  
15 lawfully convicted.

16 (4) In addition to the damages awarded pursuant to subsection (1) of  
17 this section, the claimant may be entitled to the following:

18 (a) Reasonable attorney's fees and costs incurred in the action brought  
19 pursuant to this chapter not to exceed a total of twenty-five thousand  
20 dollars (\$25,000), unless a greater reasonable total is authorized by  
21 the court upon a finding of good cause shown;

22 (b) Reentry services offered through the department of correction, as  
23 applicable;

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

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

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

45 (6) Any damages awarded pursuant to subsection (1) of this section  
46 shall be tax-exempt in the state of Idaho.

47 6-3304. CERTIFICATE OF INNOCENCE. If the court finds that the  
48 claimant is entitled to a judgment pursuant to section 6-3302, Idaho Code, it

1 shall enter a certificate of innocence finding that the claimant was inno-  
2 cent of all crimes for which the claimant was mistakenly convicted.

3       6-3305. INNOCENCE FUND CREATED. There is hereby created in the state  
4 treasury the innocence fund. The fund shall consist of moneys that may be  
5 provided by legislative appropriation and any reimbursements made to the  
6 state by claimants. The state treasurer shall invest the idle moneys of the  
7 fund, and the interest earned on such investments shall be retained by the  
8 fund. Moneys in the fund are continuously appropriated to be used solely for  
9 carrying out the provisions of this chapter.