
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)]

HB 492 Engrossed

2019 Regular Session

Larvadain

Abstract: Provides relative to compensation of persons who are wrongfully convicted for loss of life opportunities and other expenses, and provides relative to the Innocence Compensation Fund.

Present law provides that any person who 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 is entitled to receive compensation if the conviction has been reversed or vacated and the person has proved by clear and convincing evidence that he is factually innocent of the crime for which he was convicted.

In this regard, present law provides that if, after a contradictory hearing with the attorney general, the court determines that the petitioner is entitled to compensation because he is found to be factually innocent of the crime for which he was convicted, the court shall order that the petitioner receive the following:

- (1) Compensation for the physical harm and injury suffered by the petitioner in an amount equal to \$25,000 per year incarcerated, not to exceed a maximum total amount of \$250,000. Such compensation is payable from the Innocence Compensation Fund at a rate of \$25,000 annually.
- (2) Compensation for the loss of life opportunities resulting from the time spent incarcerated. In this regard, the court shall review requests for payment and order payment, not to exceed \$80,000, which the court finds reasonable and appropriate. Such compensation shall be paid from the Innocence Compensation Fund and only for the following purposes:
 - (a) The costs of job-skills training for three years.
 - (b) Appropriate medically necessary medical and counseling services for six years.
 - (c) Tuition, fees, and certain other expenses associated with attendance at any community college or unit of the public university system of the state of Louisiana for ten years after the release of the petitioner.

Proposed law amends present law to require the court, upon determining that the petitioner is factually innocent of the crime for which he was convicted, to order compensation for the physical harm and injury suffered by the petitioner at the rate set forth in present law, and shall also order that the petitioner receive \$80,000 in compensation for the loss of life opportunities and to cover expenses relating to job skills training, education, housing, and any other services such wrongfully convicted person may need. Proposed law removes from present law the criteria for each category of compensation and the limitations placed on the number of years for which the petitioner may

receive compensation for loss of life opportunities.

Proposed law further provides that any petitioner who has been awarded compensation and who has received a portion of such compensation prior to Aug. 1, 2019, may petition the court by Aug. 1, 2020, to seek the remainder of the compensation, not to exceed \$80,000, or be forever barred from filing such petition.

Present law establishes in the state treasury a special fund, to be known as the Innocence Compensation Fund, administered by the La. Commission on Law Enforcement and Administration of Criminal Justice (LCLE). Present law provides that the fund shall be used exclusively to compensate petitioners who are found to be factually innocent of the crime for which they were convicted. Present law further authorizes LCLE to adopt rules for the purpose of administering the fund and implementing the provisions of present law.

Act No. 612 of the 2018 R.S., eliminates the present law Innocence Compensation Fund and LCLE's rulemaking authority with regard to the fund effective July 1, 2020, and upon elimination of the fund, provides for the payment of compensation awarded pursuant to present law from the state general fund.

Proposed law provides that Act No. 612 of the 2018 R.S., that eliminates the present law Innocence Compensation Fund and the authority of LCLE to administer the fund effective July 1, 2020, shall not go into effect and that the provisions of proposed law shall control.

Proposed law further repeals a provision of present law (C.C.P. Art. 87) that conflicts with the present law (R.S. 15:572.8(C)) requirement that petitions for wrongful conviction be filed in the district court in which the original conviction was obtained.

(Amends R.S. 15:572.8(H) and (N)(1) and (3); Repeals C.C.P. Art. 87)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Add that any petitioner who has been awarded compensation and who has received a portion of such compensation prior to Aug. 1, 2019, may petition the court by Aug. 1, 2020, to seek the remainder of the compensation, not to exceed \$80,000, or be forever barred from filing such petition.