

Regular Session, 2011

HOUSE BILL NO. 285

BY REPRESENTATIVE DIXON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PROCEDURE: Increases the amount of monetary compensation for wrongful convictions

1 AN ACT

2 To amend and reenact R.S. 15:572.8(H)(2)(introductory paragraph), (a), and (b) and (N)(1)  
3 and to enact R.S. 15:572.8(H)(5) and (6) and (Q), relative to compensation for  
4 wrongful conviction and imprisonment; to provide for the amount of compensation;  
5 to provide for job-skills training; to provide for medical and counseling services; to  
6 provide for expungement of the crime; to provide for the Innocence Compensation  
7 Fund; to authorize the filing of a supplemental petition; to provide for time  
8 limitations; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:572.8(H)(2)(introductory paragraph), (a), and (b) and (N)(1) are  
11 hereby amended and reenacted and R.S. 15:572.8(H)(5) and (6) and (Q) are hereby enacted  
12 to read as follows:

13 §572.8. Compensation for wrongful conviction and imprisonment; petition process;  
14 compensation; proof; assignment of powers and duties

15 \* \* \*

16 H.

17 \* \* \*

18 (2) Compensation shall be calculated at a rate of ~~fifteen~~ fifty thousand  
19 dollars per year incarcerated not to exceed a maximum total amount of ~~one hundred~~  
20 ~~fifty thousand dollars~~ six hundred thousand dollars for the physical harm and injury  
21 suffered by the petitioner. As compensation for the loss of life opportunities

1 resulting from the time spent incarcerated, the court shall also review requests for  
2 payment and order payment, not to exceed ~~forty~~ eighty thousand dollars, which the  
3 court finds reasonable and appropriate from the Innocence Compensation Fund to:

4 (a) Pay the costs of job-skills training for ~~one year~~ three years.

5 (b) Pay for appropriate medically necessary medical and counseling services  
6 for ~~three~~ six years to the petitioner at a mutually agreed upon location at no charge  
7 to the petitioner, but only if such services are not available from a state or other  
8 public facility, clinic, or office that is reasonably accessible to the petitioner.

9 \* \* \*

10 (5) When the petitioner's conviction is overturned or reversed and if the  
11 district attorney elects not to retry or is unable to retry the case, the court shall  
12 expunge the conviction and accompanying arrest from the petitioner's record at no  
13 cost to the petitioner.

14 (6) The court shall issue an order declaring that the petitioner is a victim of  
15 wrongful conviction.

16 \* \* \*

17 N.(1) There is hereby established a special fund in the state treasury to be  
18 known as the Innocence Compensation Fund, hereinafter referred to as the "fund".  
19 The source of monies for the fund shall be appropriations, donations, grants, and  
20 other monies which may become available for the purposes of the fund. Any  
21 judgment rendered pursuant to this Section shall be payable only from the fund  
22 established herein. No state agency, political subdivision, constitutional office, nor  
23 employee thereof shall be liable for any payment ordered pursuant to this Section.  
24 The state shall appropriate monies annually to ensure that at least one million dollars  
25 remains in the fund at all times.

26 \* \* \*

27 Q. Any petitioner who has been awarded compensation by the court pursuant  
28 to the provisions of this Section, on or after September 1, 2005, and prior to  
29 September 1, 2011, may file a petition seeking supplemental compensation in the

1        amount authorized by the provisions of this Section. The petitioner shall file a  
 2        petition seeking supplemental compensation on or before September 1, 2012, or be  
 3        forever barred from filing a supplemental petition.

4        Section 2. This Act shall become effective on September 1, 2011.

### 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)]

Dixon

HB No. 285

**Abstract:** Increases the amount of compensation for persons who were wrongfully convicted of crimes and provides for the expungement of those crimes.

Present law provides for compensation for wrongfully convicted persons.

Present law provides that compensation shall be calculated at a rate of \$15,000 per year of incarceration, not to exceed a total of \$150,000.

Proposed law changes present law from \$15,000 per year to \$50,000 per year and from \$150,000 total to \$600,000 for physical harm and injury suffered by the petitioner.

Present law provides that the petitioner shall be compensated \$40,000 for the loss of life opportunities.

Proposed law changes the amount of compensation for loss of life opportunities in present law from \$40,000 to \$80,000.

Present law provides that the Innocence Compensation Fund shall pay for the costs of job-skills training for one year and for the appropriate medical and counseling services for three years.

Proposed law provides that the Innocence Compensation Fund shall pay for the costs of job-skills training for three years and for the appropriate medical and counseling services for six years.

Proposed law provides that when the conviction is overturned or reversed, the court shall expunge the petitioner's record of the conviction and declare that the petitioner is a victim of wrongful conviction.

Proposed law provides that the state shall appropriate monies annually to ensure that the amount of monies in the Innocence Compensation Fund shall not fall below \$1 million.

Proposed law provides that any petitioner who has been awarded compensation by the court on or after Sept. 1, 2005, and prior to Sept. 1, 2011, may file a petition seeking supplemental compensation. The petitioner shall file a petition seeking supplemental compensation on or before Sept. 1, 2012, or be forever barred from filing a supplemental petition.

Effective Sept. 1, 2011.

(Amends R.S. 15:572.8(H)(2)(intro.para.), (a), and (b) and (N)(1); Adds R.S. 15:572.8(H)(5) and (6) and (Q))