



January 25, 2019

HOUSE BILL No. 1150

DIGEST OF HB 1150 (Updated January 23, 2019 1:47 pm - DI 131)

Citations Affected: IC 4-6; IC 5-2; noncode.

Synopsis: Monetary awards for exonerated prisoners. Provides that a person whose conviction is vacated is entitled to compensation in the amount of \$50,000 for each year that the person was wrongfully incarcerated in the department of correction. Provides certain exceptions. Establishes the exoneration fund, appropriates \$200,000 to the fund, and specifies that the attorney general shall administer the fund and receive and investigate claims for compensation from the fund. Provides that a person's: (1) eligibility for; or (2) receipt of; proceeds from the exoneration fund does not prevent the person from applying for, enrolling in, or receiving the benefit of certain treatments, programs, or services if the person is otherwise eligible to receive the desired treatment or participate in the desired program or service.

Effective: July 1, 2019.

**Steuerwald, Porter, Thompson,
Smaltz**

January 7, 2019, read first time and referred to Committee on Courts and Criminal Code.
January 24, 2019, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1150—LS 6810/DI 123



January 25, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1150

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-2-1, AS AMENDED BY P.L.215-2016,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1. (a) The attorney general shall prosecute and
4 defend all suits instituted by or against the state of Indiana, the
5 prosecution and defense of which is not otherwise provided for by law,
6 whenever the attorney general has been given ten (10) ~~days~~^{days}
7 notice of the pendency of the suit by the clerk of the court in which the
8 suit is pending, or whenever the governor or a majority of the officers
9 of state require the attorney general in writing, with reasonable notice,
10 to prosecute or defend a suit. The attorney general shall represent the
11 state in all criminal cases in the Supreme Court, and shall defend all
12 suits brought against the state officers in their official relations, except
13 suits brought against them by the state; and the attorney general shall
14 be required to attend to the interests of the state in all suits, actions, or
15 claims in which the state is or may become interested in the Supreme
16 Court of this state.
17 (b) The attorney general may not defend a member (as defined in

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1 IC 2-2.1-4-5) in an action for legislative bolting brought under
2 IC 2-2.1-4.

3 (c) **The attorney general shall, in accordance with IC 5-2-23:**

4 (1) **administer the exoneration fund (as established by**
5 **IC 5-2-23-6); and**

6 (2) **receive and investigate claims for compensation from**
7 **persons whose convictions were vacated.**

8 SECTION 2. IC 5-2-23 IS ADDED TO THE INDIANA CODE AS
9 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2019]:

11 **Chapter 23. Restitution for Wrongfully Incarcerated Persons**

12 **Sec. 1. This chapter applies to a person:**

13 (1) **sentenced to the department of correction as the result of**
14 **a criminal conviction;**

15 (2) **whose conviction is vacated;**

16 (3) **who is:**

17 (A) **not retried for; or**

18 (B) **retried and not convicted of;**

19 **the crime for which the person was initially convicted and**
20 **that was vacated; and**

21 (4) **who:**

22 (A) **has not previously applied for restitution under this**
23 **chapter;**

24 (B) **has not previously sued the state of Indiana for**
25 **restitution related to a wrongful conviction; and**

26 (C) **does not currently have a pending claim or action**
27 **against the state of Indiana seeking restitution for a**
28 **wrongful conviction.**

29 **Sec. 2. (a) Subject to section 3 of this chapter, and except as**
30 **provided in section 4 of this chapter, a person to whom this chapter**
31 **applies is entitled to compensation in the amount of fifty thousand**
32 **dollars (\$50,000) for each year that the person was incarcerated in**
33 **the department of correction (including a facility under contract**
34 **to the department of correction) for a conviction that was vacated.**
35 **Compensation for a partial year of incarceration shall be**
36 **calculated on a pro rata basis.**

37 (b) **A person is not entitled to compensation under this chapter**
38 **for time spent in pretrial detention.**

39 **Sec. 3. A person to whom this chapter applies is entitled to**
40 **compensation under this chapter only if the person waives all other**
41 **claims against the state for monetary damages based on the**
42 **person's vacated conviction.**



1 **Sec. 4. (a)** A person is entitled to compensation for only the
2 period of incarceration that is solely attributable to the conviction
3 that is vacated. A person is not entitled to compensation for the
4 part of a sentence that is served concurrently with a sentence for
5 a conviction that is not vacated.

6 **(b)** The maximum amount of compensation that a person may
7 receive under this chapter is fifty thousand dollars (\$50,000) per
8 year, regardless of the number of convictions vacated.

9 **Sec. 5. (a)** This section applies to treatments, programs, or
10 services offered by one (1) or more of the following:

11 **(1)** The department of corrections.

12 **(2)** A community corrections program (as defined under
13 IC 35-38-2.6-2).

14 **(3)** A court.

15 **(b)** Nothing in this chapter shall be construed to prevent a
16 person from enrolling in, participating in, or receiving the benefit
17 of one (1) or more of the following treatments, programs, or
18 services if the person is otherwise eligible to receive or participate
19 in the treatment, program, or service:

20 **(1)** Mental health evaluation or treatment.

21 **(2)** Substance abuse evaluation or treatment.

22 **(3)** Community transition programs or services.

23 **(4)** Any other program, service, or treatment that is designed
24 to provide rehabilitation or reintegration services to an
25 incarcerated person.

26 **Sec. 6. (a)** The exoneration fund is established for the purpose
27 of carrying out this chapter. The fund shall be administered by the
28 attorney general.

29 **(b)** The fund consists of appropriations from the general
30 assembly.

31 **(c)** The expenses of administering the fund shall be paid from
32 money in the fund.

33 **(d)** The treasurer of state shall invest the money in the fund not
34 currently needed to meet the obligations of the fund in the same
35 manner as other public money may be invested. Interest that
36 accrues from these investments shall be deposited in the fund.

37 **(e)** Money in the fund at the end of a state fiscal year does not
38 revert to the state general fund.

39 **Sec. 7. (a)** A person whose conviction has been vacated may seek
40 compensation under this chapter by applying to the attorney
41 general on a form and in a manner to be determined by the
42 attorney general. An applicant shall submit additional evidence



1 upon request of the attorney general.
 2 (b) Upon receipt of a completed application under this section,
 3 plus any additional evidence required by the attorney general, the
 4 attorney general shall investigate the claim.
 5 (c) If, at the conclusion of the investigation, the attorney general
 6 determines that the applicant qualifies for compensation under this
 7 chapter, the attorney general shall pay the compensation due the
 8 applicant from the exoneration fund in accordance with this
 9 chapter.
 10 (d) If the balance in the exoneration fund is not adequate to fully
 11 compensate an applicant entitled to compensation, the attorney
 12 general may prorate compensation.
 13 (e) The attorney general may adopt rules under IC 4-22-2 to
 14 carry out the attorney general's duties under this chapter.
 15 (f) A determination by the attorney general under this section
 16 is a final appealable order.
 17 SECTION 3. [EFFECTIVE JULY 1, 2019] (a) There is
 18 appropriated from the state general fund to the exoneration fund
 19 (established by IC 5-2-23-6, as added by this act) for the biennium
 20 beginning July 1, 2019, and ending June 30, 2021, two hundred
 21 thousand dollars (\$200,000) for the purpose of carrying out
 22 IC 5-2-23, as added by this act.
 23 (b) This SECTION expires June 30, 2020.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1150, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, delete "IC 5-2-23-5);" and insert "**IC 5-2-23-6);**".

Page 3, between lines 8 and 9, begin a new paragraph and insert:

"Sec. 5. (a) This section applies to treatments, programs, or services offered by one (1) or more of the following:

(1) The department of corrections.

(2) A community corrections program (as defined under IC 35-38-2.6-2).

(3) A court.

(b) Nothing in this chapter shall be construed to prevent a person from enrolling in, participating in, or receiving the benefit of one (1) or more of the following treatments, programs, or services if the person is otherwise eligible to receive or participate in the treatment, program, or service:

(1) Mental health evaluation or treatment.

(2) Substance abuse evaluation or treatment.

(3) Community transition programs or services.

(4) Any other program, service, or treatment that is designed to provide rehabilitation or reintegration services to an incarcerated person."

Page 3, line 9, delete "Sec. 5." and insert "**Sec. 6.**".

Page 3, line 22, delete "Sec. 6." and insert "**Sec. 7.**".

Page 4, line 2, delete "IC 5-2-23-5," and insert "**IC 5-2-23-6,**".

and when so amended that said bill do pass.

(Reference is to HB 1150 as introduced.)

MCNAMARA

Committee Vote: yeas 13, nays 0.

