



February 5, 2019

HOUSE BILL No. 1150

DIGEST OF HB 1150 (Updated January 31, 2019 3:44 pm - DI 134)

Citations Affected: IC 5-2.

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. Specifies that the office of management and budget shall administer the fund and receive and process 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.
February 4, 2019, amended, reported — Do Pass.

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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.

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

1 SECTION 1. IC 5-2-23 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]:

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

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

6 (1) sentenced to the department of correction as the result of
7 a criminal conviction;

8 (2) whose conviction is vacated;

9 (3) who is:

10 (A) not retried for; or

11 (B) retried and not convicted of;

12 the crime for which the person was initially convicted and
13 that was vacated; and

14 (4) who:

15 (A) has not previously applied for restitution under this
16 chapter;

17 (B) has not previously sued the state of Indiana for

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1 restitution related to a wrongful conviction; and
 2 (C) does not currently have a pending claim or action
 3 against the state of Indiana seeking restitution for a
 4 wrongful conviction.

5 Sec. 2. (a) Subject to section 3 of this chapter, and except as
 6 provided in section 4 of this chapter, a person to whom this chapter
 7 applies is entitled to compensation in the amount of fifty thousand
 8 dollars (\$50,000) for each year that the person was incarcerated in
 9 the department of correction (including a facility under contract
 10 to the department of correction) for a conviction that was vacated.
 11 Compensation for a partial year of incarceration shall be
 12 calculated on a pro rata basis.

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

15 Sec. 3. A person to whom this chapter applies is entitled to
 16 compensation under this chapter only if the person waives all other
 17 claims against the state for monetary damages based on the
 18 person's vacated conviction.

19 Sec. 4. (a) A person is entitled to compensation for only the
 20 period of incarceration that is solely attributable to the conviction
 21 that is vacated. A person is not entitled to compensation for the
 22 part of a sentence that is served concurrently with a sentence for
 23 a conviction that is not vacated.

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

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

- 29 (1) The department of corrections.
- 30 (2) A community corrections program (as defined under
- 31 IC 35-38-2.6-2).
- 32 (3) A court.

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

- 38 (1) Mental health evaluation or treatment.
- 39 (2) Substance abuse evaluation or treatment.
- 40 (3) Community transition programs or services.
- 41 (4) Any other program, service, or treatment that is designed
- 42 to provide rehabilitation or reintegration services to an



- 1 incarcerated person.
- 2 **Sec. 6. (a) The exoneration fund is established for the purpose**
3 **of carrying out this chapter. The fund shall be administered by the**
4 **office of management and budget.**
- 5 **(b) The fund consists of appropriations from the general**
6 **assembly.**
- 7 **(c) The expenses of administering the fund shall be paid from**
8 **money in the fund.**
- 9 **(d) The treasurer of state shall invest the money in the fund not**
10 **currently needed to meet the obligations of the fund in the same**
11 **manner as other public money may be invested. Interest that**
12 **accrues from these investments shall be deposited in the fund.**
- 13 **(e) Money in the fund at the end of a state fiscal year does not**
14 **revert to the state general fund.**
- 15 **Sec. 7. (a) A person whose conviction has been vacated may seek**
16 **compensation under this chapter by applying to the office of**
17 **management and budget on a form and in a manner to be**
18 **determined by the office of management and budget. An applicant**
19 **shall submit additional information upon request of the office of**
20 **management and budget.**
- 21 **(b) If the office of management and budget determines that the**
22 **applicant qualifies for compensation under this chapter, the office**
23 **of management and budget shall pay the compensation due the**
24 **applicant from the exoneration fund in accordance with this**
25 **chapter.**
- 26 **(c) The office of management and budget may adopt rules under**
27 **IC 4-22-2 to carry out the office of management and budget's**
28 **duties under this chapter.**
- 29 **(d) A determination by the office of management and budget**
30 **under this section is a final appealable order.**



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.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, 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

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recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 7.

Page 3, line 28, delete "attorney general." and insert "**office of management and budget.**".

Page 3, line 40, delete "attorney" and insert "**office of management and budget**".

Page 3, line 41, delete "general".

Page 3, line 42, delete "attorney general." and insert "**office of management and budget.**".

Page 3, line 42, delete "evidence" and insert "**information**".

Page 4, line 1, delete "attorney general." and insert "**office of management and budget.**".

Page 4, delete lines 2 through 5, begin a new paragraph and insert "**(b) If the office of management and budget**".

Page 4, line 7, delete "attorney general" and insert "**office of management and budget**".

Page 4, delete lines 10 through 12.

Page 4, line 13, delete "(e) The attorney general" and insert "**(c) The office of management and budget**".

Page 4, line 14, delete "attorney general's" and insert "**office of management and budget's**".

Page 4, line 15, delete "(f)" and insert "**(d)**".

Page 4, line 15, delete "attorney general" and insert "**office of management and budget**".

Page 4, delete lines 17 through 23.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1150 as printed January 25, 2019.)

HUSTON

Committee Vote: yeas 23, nays 0.

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