



1 Criminal Justice; to provide relative to the venue in which an application for  
 2 compensation based upon wrongful conviction and imprisonment may be filed; to  
 3 provide relative to changes made to R.S. 15:572.8(H)(1) and (2)(introductory  
 4 paragraph) in Section 4 of Act No. 612 of the 2018 Regular Session of the  
 5 Legislature and the repeal of R.S. 15:572.8(N) in Section 22 of Act No. 612 of the  
 6 2018 Regular Session of the Legislature; to provide for effectiveness; and to provide  
 7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:572.8(A)(introductory paragraph) and (1), (C), (E), (F),  
 10 (G)(introductory paragraph), (H), (N)(1) and (3), (O)(1), (2), and (3), and (P) are hereby  
 11 amended and reenacted and R.S. 15:572.8.2 is hereby enacted to read as follows:

12 §572.8. Compensation for wrongful conviction and imprisonment; petition process;  
 13 and Innocence Compensation Fund ~~compensation; proof; assignment of~~  
 14 ~~powers and duties~~

15 A. A petitioner is entitled to compensation in accordance with this Section  
 16 if he has served, in whole or in part, a sentence of imprisonment under the laws of  
 17 this state for a crime for which he was convicted and both of the following have  
 18 occurred:

19 (1) The conviction of the petitioner has been reversed or vacated; ~~and,~~  
 20 \* \* \*

21 C. All petitions for compensation as provided in this Section shall be filed  
 22 in the district court in which the original conviction was obtained, hereinafter  
 23 referred to as "the court", and shall be randomly re-allotted by the court and shall be  
 24 ~~governed by procedures outlined herein and randomly re-allotted by the court~~  
 25 provided in this Section.

26 \* \* \*

27 E. The attorney general shall represent the state of Louisiana in these  
 28 proceedings. The court shall serve a copy of any petition filed pursuant to this  
 29 Section upon the attorney general and the district attorney of the parish in which the

1 conviction was obtained and upon the court that vacated or reversed the petitioner's  
 2 conviction or upon the pardon board if the conviction was vacated through executive  
 3 clemency within fifteen days of receiving such petition. Upon receipt of the petition  
 4 and of confirmation of service on the attorney general's office, the court shall ask the  
 5 state, through the attorney general's office, to respond to the petition within forty-five  
 6 days of service of the petition. A maximum of two extensions of thirty days may be  
 7 granted by the court upon written request by the state for cause shown. The court  
 8 shall set a hearing within forty-five days of the attorney general's response. Unless  
 9 otherwise provided ~~herein~~ in this Section, the Louisiana rules of evidence shall  
 10 apply.

11 F.(1) The petition shall contain a recitation of facts necessary to an  
 12 understanding of the petitioner's innocence that is supported by either or both of the  
 13 following: ~~the~~

14 (a) The opinion or order vacating the conviction and sentence ~~and/or by the~~.

15 (b) The existing court record of the case.

16 (2) Specific citations for each fact tending to show innocence shall be made  
 17 to the existing record.

18 G. The petitioner shall attach all of the following to the petition:

19 \* \* \*

20 H.(1) After a contradictory hearing with the attorney general, the court shall  
 21 render a decision as soon as practical. If, from its findings of fact, the court  
 22 determines that the petitioner is entitled to compensation because he is found to be  
 23 factually innocent of the crime of which he was convicted, it shall determine the  
 24 amount of compensation due in accordance with the provisions of this Section, and  
 25 it shall order payment to the petitioner from the Innocence Compensation Fund  
 26 which shall be created specifically for the administration of awards under this  
 27 Section.

28 (2) Compensation for the physical harm and injury suffered by the petitioner  
 29 shall be calculated at a rate of twenty-five thousand dollars per year incarcerated, not

1 to exceed a maximum total amount of two hundred fifty thousand dollars, ~~for the~~  
2 ~~physical harm and injury suffered by the petitioner~~ to be paid at a rate of twenty-five  
3 thousand dollars annually. As

4 (3) In addition to the compensation provided in Paragraph (2) of this  
5 Subsection, the court shall order that the petitioner be eligible to receive up to eighty  
6 thousand dollars total in compensation for the loss of life opportunities resulting  
7 ~~from the time spent incarcerated, the court shall also review requests for payment~~  
8 ~~and order payment, not to exceed eighty thousand dollars, which the court finds~~  
9 ~~reasonable and appropriate. Such compensation shall be paid from the Innocence~~  
10 ~~Compensation Fund to:~~ pursuant to the procedures and provisions set forth in R.S.  
11 15:572.8.2.

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

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

17 (c)(i) ~~Provide expenses for tuition and fees at any community college or unit~~  
18 ~~of the public university system of the state of Louisiana.~~

19 (ii) ~~State aid in accordance with this Subparagraph shall include assistance~~  
20 ~~in meeting any admission standards or criteria required at any of the applicable~~  
21 ~~institutions, including but not limited to assistance in satisfying requirements for a~~  
22 ~~certificate of equivalency of completion of secondary education and assistance in~~  
23 ~~completing any adult education program or courses.~~

24 (iii) ~~The right to receive aid in accordance with this Subparagraph shall be~~  
25 ~~for ten years after the release of a petitioner who qualifies for aid. State education~~  
26 ~~aid shall continue for up to a total of five years of aid when initiated within the ten-~~  
27 ~~year period or until the degree or program for which the petitioner is authorized is~~  
28 ~~completed, whichever is less, as long as the petitioner makes satisfactory progress~~  
29 ~~in the courses or program in which he is enrolled. Aid shall be available for~~

1 ~~completion of any degree or program which the petitioner chooses and which is~~  
2 ~~available from the applicable institutions.~~

3 (3)(4) In determining the compensation owed to the petitioner, the court may  
4 not deduct any expenses incurred by the state or any of its political subdivisions in  
5 connection with the arrest, prosecution, conviction, and imprisonment of the  
6 petitioner for a crime of which the board finds he was factually innocent, including  
7 expense for food, clothing, shelter, and medical services.

8 (4)(5) A petitioner shall not be entitled to compensation for any portion of  
9 a sentence in prison during which he was also serving a concurrent sentence for the  
10 conviction of another crime.

11 \* \* \*

12 N.(1) There is hereby established ~~a special fund~~ in the state treasury a special  
13 fund to be known as the Innocence Compensation Fund, hereinafter referred to as the  
14 "fund". The fund shall be administered by the Louisiana Commission on Law  
15 Enforcement and Administration of Criminal Justice. The source of monies for the  
16 fund shall be appropriations, donations, grants, and other monies which may become  
17 available for the purposes of the fund. Any judgment rendered pursuant to this  
18 Section shall be payable only from the fund established herein. No state agency,  
19 political subdivision, constitutional office, nor employee thereof shall be liable for  
20 any payment ordered pursuant to this Section.

21 \* \* \*

22 (3) Monies appropriated from the fund shall be used exclusively ~~by the court~~  
23 to compensate, pursuant to the procedure set forth in R.S. 15:572.8.2, petitioners who  
24 are found to be factually innocent of the crime of which they were convicted; as  
25 provided in ~~Subsection A~~ of this Section.

26 O. In the event that compensation is awarded to a petitioner pursuant to this  
27 Section in the amount in excess of one hundred thousand dollars, the court may fund  
28 on behalf of such petitioner an annuity contract to be secured by the petitioner,  
29 provided that all of the following conditions are met:

1 (1) Such contract shall only be secured from an insurance company licensed  
2 in accordance with the laws of the state of Louisiana whose claims-paying ability is  
3 rated as superior or excellent by at least two nationally recognized rating services;  
4 ~~and.~~

5 (2) The contract, by its terms, cannot be sold, transferred, assigned,  
6 discounted, or used as security for a loan; ~~and.~~

7 (3) The contract provides for survivors benefits; ~~and.~~

8 \* \* \*

9 P.(1) The court shall annually prepare and submit a report for the prior  
10 calendar year to the judicial administrator of the Louisiana Supreme Court, on or  
11 before the first day of March, commencing in 2008; ~~including.~~ The report shall  
12 include the number of persons ordered to receive compensation pursuant to the  
13 provisions of this Section and the total amount ordered for each person awards and  
14 the total amount of funds distributed in accordance with this Section.

15 (2) The judicial administrator of the Louisiana Supreme Court shall annually  
16 prepare and submit a report for the prior calendar year to the governor and  
17 legislature, on or before the first day of April, commencing in 2008; ~~including.~~ The  
18 report shall include the number of persons ordered to receive compensation pursuant  
19 to the provisions of this Section and the total amount ordered for each person awards  
20 and the total amount of funds distributed in accordance with this Section.

21 \* \* \*

22 §572.8.2. Issuance of compensation for wrongful conviction and loss of life  
23 opportunities; application process; appeals

24 A. Any person who is determined to be factually innocent and entitled to  
25 receive compensation pursuant an order issued by the court in accordance with R.S.  
26 15:572.8 shall apply to receive such compensation from the Innocence  
27 Compensation Fund in accordance with the provisions this Section and any rules  
28 adopted by the ICB for the purposes of this Section.

1           B.(1) Any person who is ordered eligible to receive compensation for loss  
2           of life opportunities pursuant to R.S. 15:572.8(H)(3) shall apply to the ICB to receive  
3           compensation. The person may continue to apply to the ICB for compensation for  
4           loss of life opportunities until all funds allotted to the person, pursuant to the court's  
5           order and R.S. 15:572.8(H)(3), have been disbursed. As provided in R.S. 15:572.8,  
6           each person shall be eligible to receive no more than eighty thousand dollars total as  
7           compensation for loss of life opportunities and such compensation shall be received  
8           for only the following purposes:

9           (a) Pay the costs of job-skills training.

10           (b) Pay for appropriate medically necessary medical and counseling services  
11           for the petitioner at a mutually agreed upon location at no charge to the petitioner,  
12           but only if such services are not available from a state or other public facility, clinic,  
13           or office that is reasonably accessible to the petitioner.

14           (c)(i) Provide expenses for tuition and fees at any community college or unit  
15           of the public university system of the state of Louisiana.

16           (ii) State aid in accordance with this Subparagraph shall include assistance  
17           in meeting any admission standards or criteria required at any of the applicable  
18           institutions, including but not limited to assistance in satisfying requirements for a  
19           certificate of equivalency of completion of secondary education and assistance in  
20           completing any adult education program or courses.

21           (iii) State education aid shall continue for up to a total of five years of aid or  
22           until the degree or program for which the petitioner is authorized is completed,  
23           whichever is less, as long as the petitioner makes satisfactory progress in the courses  
24           or program in which he is enrolled. Aid shall be available for completion of any  
25           degree or program which the petitioner chooses and which is available from the  
26           applicable institutions.

27           (2) The ICB shall review each application for loss of life opportunities and  
28           accompanying documentation and shall determine whether the application for loss

1 of life opportunity compensation is for a purpose set forth in Paragraph (1) of this  
2 Subsection.

3 (3) If the ICB determines that an applicant seeks to be compensated for a  
4 loss of life opportunity which satisfies the criteria set forth in Paragraph (1) of this  
5 Subsection and that the maximum amount allotted to the applicant pursuant to R.S.  
6 15:572.8(H)(3) has not been fully disbursed, it shall issue payment to the applicant  
7 to cover the eligible costs.

8 (4)(a) If the ICB determines that the applicant seeking to be compensated for  
9 a loss of life opportunity does not satisfy the criteria set forth in Paragraph (1) of this  
10 Subsection, it shall issue a written decision to the applicant stating the reasons for its  
11 determination.

12 (b) The applicant may appeal the ICB's decision not to issue compensation  
13 to the district court in which the order for wrongful conviction and eligibility for loss  
14 of life opportunity compensation was issued pursuant to R.S. 15:572.8.

15 Section 2. R.S. 15:572.8.1 is hereby enacted to read as follows:

16 §572.8.1. Innocence Compensation Board; membership; powers and duties;  
17 establishment of application and procedure for receiving wrongful conviction  
18 and loss of life opportunity compensation

19 A. The Innocence Compensation Board, hereinafter referred to as "ICB" or  
20 "board", is created and established under the jurisdiction of the Louisiana  
21 Commission on Law Enforcement and Administration of Criminal Justice in the  
22 office of the governor. The board shall be domiciled in Baton Rouge.

23 B.(1) The board shall be comprised of the following seven members:

24 (a) The executive director of the Louisiana Commission on Law  
25 Enforcement and Administration of Criminal Justice, or his designee, who shall  
26 serve as chair of the board.

27 (b) The attorney general or his designee.

28 (c) The executive director of the Louisiana District Attorneys Association  
29 or his designee.



1           (d) The president of the Louisiana Association of Criminal Defense Lawyers  
2           or his designee.

3           (e) The commissioner of higher education or her designee.

4           (f) The secretary of the Louisiana Department of Health or her designee.

5           (g) The secretary of the Louisiana Workforce Commission or her designee.

6           (2) Vacancies shall be filled in the manner of the original selection.

7           C. The members of the board shall serve without additional compensation.  
8           Travel, per diem, and other expenses may be paid by the member's respective  
9           employer or affiliated agency.

10           D. A majority of the members of the board shall constitute a quorum for the  
11           transaction of all business.

12           E. The board shall do all of the following:

13           (1) Provide for the procedure by which persons who have been determined  
14           by the court to be entitled to compensation pursuant to R.S. 15:572.8 may apply to  
15           receive such compensation from the Innocence Compensation Fund.

16           (2) Develop, distribute, and otherwise make available forms for use in  
17           making an application for compensation from the Innocence Compensation Fund.

18           (3) Receive and process applications for compensation from the Innocence  
19           Compensation Fund.

20           (4) Hold quarterly meetings to review applications for compensation  
21           received in the prior three-month period. If no new applications were filed since the  
22           prior quarterly meeting, the board is not required to hold a meeting for that quarter.

23           (5) Issue payment of compensation ordered by the court pursuant to R.S.  
24           15:572.8(H)(2) to any petitioner who files an application pursuant to the provisions  
25           of R.S. 15:572.8.2.

26           (6) Review each application received for compensation for loss of life  
27           opportunities ordered by the court pursuant to R.S. 15:572.8(H)(3) and determine  
28           whether the compensation applied for meets the requirements set forth in R.S.  
29           15:572.8.2(B)(1).

1           (7) Beginning in 2020, prepare a report annually for the prior calendar year  
2           and submit it to the governor and legislature, on or before the first day of April. The  
3           report shall include the number of awards and the total amount of funds distributed  
4           in accordance with the provisions of R.S. 15:572.8.2.

5           (8) Adopt rules, in accordance with the Administrative Procedure Act, that  
6           are necessary to implement the provisions of this Section and R.S. 15:572.8 and  
7           572.8.2, including but not limited to the following:

8           (a) The methods and procedures for applying for compensation from the  
9           Innocence Compensation Fund as authorized by this Section and R.S. 15:572.8.2.

10          (b) The administration of the Innocence Compensation Fund.

11          Section 3. R.S. 15:572.8(R) and (S) are hereby repealed in their entirety.

12          Section 4. Code of Civil Procedure Article 87 is hereby repealed in its entirety.

13          Section 5. It is the intent of the legislature that the changes made to R.S.  
14          15:572.8(H)(1) and (2)(introductory paragraph) in Section 4 of Act No. 612 of the 2018  
15          Regular Session of the Legislature and the repeal of R.S. 15:572.8(N) in Section 22 of Act  
16          No. 612 of the 2018 Regular Session of the Legislature shall never go into effect and that the  
17          provisions of this Act shall control. Therefore, notwithstanding the provisions of Section  
18          25 of Act No. 612 of the 2018 Regular Session of the Legislature, the provisions of Section  
19          4 of Act No. 612 of the 2018 Regular Session that amended and reenacted R.S.  
20          15:572.8(H)(1) and (2)(introductory paragraph) and the provisions of Section 22 of Act No.  
21          612 of the 2018 Regular Session that repealed R.S. 15:572.8(N) shall not become effective  
22          and are hereby repealed.

23          Section 6. This Section and Sections 2, 4, and 5 of this Act shall become effective  
24          on August 1, 2019. Sections 1 and 3 of this Act shall become effective on March 1, 2020.

---

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 186 Original

2019 Regular Session

Larvadain

**Abstract:** Provides relative to the procedure by which persons who are wrongfully convicted receive compensation from the Innocence Compensation Fund, and creates the Innocence Compensation Board to establish the process by which the person applies for and receives compensation disbursements from the 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 does all of the following:

- (1) Provides that all petitions for such compensation shall be filed in the district court in which the original conviction was obtained and shall be randomly re-allotted by the court and shall be governed by procedures outlined in present law.
- (2) Requires the attorney general to represent the state of La. in these proceedings.
- (3) Provides that, after a contradictory hearing with the attorney general, the court shall determine whether the petitioner is entitled to compensation because he is found to be factually innocent of the crime for which he was convicted.

If the court determines that the petitioner is entitled to compensation, present law requires the court to order that the petitioner receive the following:

- (a) 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.
- (b) 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:
  - (i) The costs of job-skills training for three years.
  - (ii) Appropriate medically necessary medical and counseling services for six years.
  - (iii) 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.
- (4) 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).

In this regard, present law provides that the fund shall be used exclusively to compensate petitioners who are found to be factually innocent of the crime of which they were convicted.

Act No. 612 of the 2018 R.S., eliminates the present law Innocence Compensation 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.

- (5) Requires the court, the judicial administrator of the La. Supreme Court, and LCLE to annually prepare and submit a report on the number of wrongful conviction compensation awards granted and the total amount of funds distributed.

Proposed law, effective Aug. 1, 2019, establishes the Innocence Compensation Board (ICB) under the jurisdiction of LCLE in the office of the governor and provides that the ICB shall be comprised of the following members or their designees who shall serve without additional compensation: the executive director of LCLE who shall serve as chair of the board, the attorney general, the executive director of the La. District Attorneys Assoc., the president of the La. Assoc. of Criminal Defense Lawyers, the commissioner of higher education, the secretary of the La. Dept. of Health, and the secretary of the La. Workforce Commission.

Proposed law requires the ICB to do the following:

- (1) Establish, by rule adopted pursuant to the Administrative Procedure Act, a procedure by which persons who have been determined by the court to be entitled to compensation pursuant to present law may apply to receive such compensation from the Innocence Compensation Fund.
- (2) Hold quarterly meetings to review applications for compensation received in the prior three-month period, unless no new applications were filed since the prior quarterly meeting.
- (3) Issue payment of compensation ordered by the court for physical harm and injury suffered by the petitioner pursuant to present law to any petitioner who files an application pursuant to the procedures established by the ICB.
- (4) Review each application received for compensation for loss of life opportunities ordered by the court and determine whether the compensation applied for meets the criteria set forth in present law.

In this regard, proposed law retains the specific purposes for which a person may receive compensation for the loss of life opportunities but removes the time limitation within which such compensation is required to be paid.

- (5) Beginning in 2020, annually report to the governor and legislature the number of wrongful conviction compensation awards granted and the total amount of funds distributed. Proposed law no longer requires LCLE to report this information.

With regard to the procedure by which persons who are wrongfully convicted receive compensation, proposed law does all of the following effective March 1, 2020:

- (1) Provides that any person who is determined to be factually innocent and who is ordered by the court to receive compensation shall apply to receive such compensation from the ICB pursuant to the provisions of proposed law and the procedures adopted by the ICB for purposes of proposed law.
- (2) Provides that a person who is ordered eligible to receive compensation for loss of life opportunities shall apply to the ICB to receive compensation and may continue to

apply to the ICB for compensation for loss of life opportunities until all funds allotted to the person have been disbursed.

- (3) Provides that if the ICB determines that the loss of life opportunity for which the applicant seeks to be compensated satisfies the criteria provided by proposed law and that the maximum amount allotted to the applicant has not been fully disbursed, it shall issue payment to the applicant to cover the eligible costs.
- (4) Provides that if the ICB determines that the loss of life opportunity for which the applicant seeks to be compensated does not satisfy the proposed criteria, it shall issue a written decision to the applicant stating the reasons for its determination. The applicant may then appeal the ICB's decision to the district court in which the order for wrongful conviction and eligibility for loss of life opportunity compensation was issued.

Effective Aug. 1, 2019, proposed law does both of the following:

- (1) Repeals a provision of present law (C.C.P. Art. 87) that conflicts with the present law requirement that petitions for wrongful conviction be filed in the district court in which the original conviction was obtained.
- (2) Provides that Act No. 612 of the 2018 R.S., that eliminates the present law Innocence Compensation Fund effective July 1, 2020, shall not go into effect and that the provisions of proposed law shall control.

(Amends R.S. 15:572.8(A)(intro. para.) and (1), (C), (E), (F), (G)(intro. para.), (H), (N)(1) and (3), (O)(1), (2), and (3), and (P); Adds R.S. 15:572.8.1 and 572.8.2; Repeals R.S. 15:572.8(R) and (S) and C.C.P. Art. 87)