

COMPENSATION STATUTES

STATE	STATUTE	PASSED	ELIGIBILITY	STANDARD OF PROOF	WHO DECIDES	TIME LIMITS FOR FILING	MAXIMUM AWARDS	OTHER AWARDS	FUTURE CIVIL LITIGATION	CONTRIBUTORY PROVISIONS	FUNDING SOURCE	PAID OUT
AL	Ala.Code 1975 § 29-2-150, et seq.	2001	Conviction vacated or reversed and the charges dismissed on grounds consistent with innocence	Not specified	State Division of Risk Management and the Committee on Compensation for Wrongful Incarceration	2 years after exoneration or dismissal	Minimum of \$50,000 for each year of incarceration, Committee on Compensation for Wrongful Incarceration can recommend discretionary amount in addition to base, but legislature must appropriate any funds	Not specified	Not specified	A new felony conviction will end a claimant's right to compensation	Requires a specific legislative appropriation.	
CA	Cal Penal Code §§ 4900 to 4906	Amended 2000; 2006; 2009	Pardon for innocence or being "innocent"	Not specified	State Board of Control makes a recommendation to the legislature	2 years after judgment of acquittal or discharge given, or after pardon granted, or after release from imprisonment	\$100 per day of incarceration	Not specified	Not specified	Claimant must show he did not contribute to arrest or conviction	A claim board recommends that an appropriation be made by the legislature.	5 state statute awards from 1999 through 2008, totaling \$1,859,900 5 civil suit awards from 1998 through 2008, totaling \$11,345,368
CO	Colo. Rev. Stat § 13-65-101	2013	Petitioner or immediate family member: where the conviction is vacated or reversed and the charges dismissed on grounds consistent with innocence, or the claimant is acquitted after a retrial.	Clear and convincing	District Court in the County of the original conviction	2-years after dismissal or acquittal	75K per year incarcerated, an additional 50K for every year spent on death row, and 25K for each year spent on probation, parole, or incarcerated.	Tuition waiver at state institutions, compensation for child support arrears, reasonable attorney fees, court fees and fines, any restitution paid	The court shall reduce the compensation award by the amount of any judgment secured in a civil action concerning the same acts.	Petitioner did not commit or suborn perjury.	Not specified	1 state statute award in 2013 for \$1,200,000

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CT	CT ST 54-102uu	2008	Pardon, or conviction vacated, or reversed, and the charges dismissed on grounds consistent with innocence	Preponderance of the evidence	Claims Commissioner	2 years from date of pardon or dismissal	No limit. Commissioner may consider wide range of damages and expenses, including attorney's fees	Commissioner may order payment for job training, counseling, tuition at state school, and any other services such person may need to facilitate such person's reintegration into the community	Permits	Not specified	Not specified	1 private bill award in 2007 for \$5,000,000
DC	DC ST § 2-421, et seq.	1981	Pardon for innocence or conviction reversed or set aside on the ground that claimant is not guilty.	Clear and convincing	Civil Court	Not specified	No maximum No punitive damages	Not specified	Not specified	Claimant must show that he did not, by his misconduct, bring about the prosecution, and he must not have pled guilty	Not specified	
FL	FL ST 961.01, et seq.	2008	Certification by prosecuting authority that petitioner is innocent, that no further criminal proceeding will be initiated, no questions of fact remain, and petitioner is eligible for compensation	If prosecuting authority does not certify, admin. law judge must find innocence by clear and convincing	Trial court – can consider claim even if prosecuting authority does not certify innocence. Claim would then be sent to admin. law judge for factual determination of innocence, and trial judge could adapt findings or not	Initially, petitioner must file for a declaration of wrongful conviction. After July, 2008, petitioner must file w/in 90 days after order vacating conviction. Prior to July 08, by July 1, 2010. Then must file for compensation w/in 2 years from declaration.	\$50,000 per year, adjusted for COL increases (cap of \$2 million) court costs and reasonable attorneys' fees	120 hours of tuition at a career center, community college or state university; and any fines or costs imposed at sentence;	Bars	Must not have been convicted of a felony before or during the wrongful incarceration	General Revenue Fund or other source designated by the Legislature	1 state statute award in 2011 for \$1,700,000 3 civil suit awards from 2008 through 2013, totaling \$11,540,000 3 private bill awards from 2005 through 2012, totaling \$4,600,000

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IL	Ill Rev Stat ch. 705 § 505/1, et. Seq.	1945; many amendments, last in 2009, and 2011 (SB 389)	Pardon for innocence or certificate of innocence	Preponderance of the evidence	Court of Claims	2 years after the person asserting such claim is either issued a certificate of innocence as provided in Section 2-702 of the Code of Civil Procedure, or is granted a pardon by the Governor, whichever occurs later	≤5 yrs., \$85,350 max, ≤14 yrs., \$170,000 max, >14 yrs., \$199,150 max, with COLA increase	IL ST CH 20 § 1015/2 provides that the wrongfully accused receive job search and placement services, including assessment, resume assistance, interview preparation, occupational and labor market information, referral to employers with job openings *NOTE SB 389 (enacted 2011) requires the Department of Human Services to establish a re-entry services program to assist for the wrongfully convicted in obtaining mental health services	Not specified	Not specified	Not specified	27 state statute awards from 1998 through 2012, totaling \$3,952,139 (missing years for three and missing award amount for one of the 27) 20 civil suit awards from 1999 through 2012, totaling \$86,653,634 (missing years for two and missing award amount for one of the 20)
IA	Iowa Code Ann. § 663A.1	1997	Conviction vacated or reversed and charges dismissed	Clear and Convincing	District Court for liability; State Appeal Board or Civil Ct. for Damages	2 years	\$50 per day and attorneys' fees	lost wages up to \$25,000 per year	May permit against municipalities	Claimant must not have pled guilty	???	

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LA	R.S.15:572.8 and Code Civ. Pro. Art. 87 (amended by HB 285)	2005; amd. 2011	Conviction reversed or vacated, and petitioner “has proven” factual innocence	Clear and Convincing	19 th Judicial District Court - trial by judge alon.	2 years from vacatur of conviction or for cases pending when statue was passed, by September 2007	\$25,000 per year; with a maximum award of \$250,000	Court may award costs of job/skills training for three years, and medically necessary medical and counseling services for six years; as well as tuition expenses at a community college or unit of the state university system –at a cost of not more than \$80,000	Permits	Not specified	Innocence Compensation Fund whose sources include appropriations, donations, grants, and other monies that may become available	4 state statute awards from 2006 through 2012, totaling \$740,000 3 civil suit awards from 2003 through 2009, totaling \$2,600,000 2 private bill awards (one in 2007, missing year for the other), totaling \$380,000
MA	Ann L. MA. Gen'l Laws, Chapter 258D § 1-9	2004	Pardon or conviction reversed and charges dismissed on grounds consistent with innocence or case tried to acquittal	Clear and convincing	Superior Court in the county where the claimant was convicted or in Suffolk County	2 years	A maximum of \$500,000 may be awarded No punitive or exemplary damages	Court may order services – physical and/or emotional, educational services at any state of community college (50 % reduction of the tuition and fees applicable to such services at said institutions), and expungement of the record of conviction	Permits	Claimant cannot have pled guilty, unless such plea was withdrawn, vacated or nullified by operation of law	Funds appropriated by the general court	7 state statute awards from 2005 through 2007, totaling \$3,550,000 7 civil suit awards from 2006 through 2009, totaling \$44,410,000
ME	14 Me Rev Stat Ann § 8241-8244	1993	Pardon for innocence	Clear and convincing	Superior Court	2 years from pardon	\$300,000 no punitive or exemplary damages	Not specified	Not specified	Not specified	General Fund	

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MD	Md State Fin & Proc § 10-501	1999; amd. 2003	Pardon stating that the individual's conviction has been shown conclusively to be in error	Not specified	Board of Public Works	Not specified	Actual damages	Not specified	Not specified	Not specified	The Board of Public Works	2 state statute awards from 1994 through 2003, totaling \$1,200,000
MS	MS ST § 11-44-1, et seq.	2009	Pardon based on the innocence or conviction was vacated and/or reversed	Preponderance of the evidence	Circuit court of the county in which the claimant was convicted	3 years	\$50,000 per year; \$500,000 cap; reasonable attorney's fees	Not specified	Likely permit against municipalities	Not specified	The Department of Corrections	2 state statute awards in 2011 (missing award amount for both)
MO	V.A.M.S. 650.058	2006	Person must be determined to be 'actually innocent' only by DNA evidence	DNA evidence must demonstrate innocence	Sentencing court	1 year from release from confinement – after August 28, 2003	\$50 per day of post-conviction confinement	Not specified	Bars	Not specified	Not specified	3 state statute awards from 2005 through 2008, totaling \$521,000 2 private bill awards in 2006, totaling \$527,650
MT	Mont. Code Ann. § 53-1-214	2003	judgment of conviction was overturned by a court based on the results of post-conviction forensic DNA testing that exonerates the person of the crime for which the person was convicted	Not specified (reliant upon eligibility finding)	Funds to be appropriated by the legislature	The privilege of receiving aid under this section remains active for 10 years after the release of a person	Provides educational aid (expenses for tuition, fees, books, board, and room at any MT community college, unit of the MT university system, or accredited MT tribally controlled community college)	Not specified	Not specified	Not specified	Adult Education Fund	2 civil suit awards (one in 2008, missing year for the other), totaling \$3,530,000

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NE	NE ST 29-4601, et seq.	2009	Board of Pardons has pardoned the claimant, a court has vacated the conviction of the claimant, or that the conviction was reversed and remanded for a new trial and no subsequent conviction was obtained	Clear and convincing	Not specified	Not specified	\$500,000 cap	Not specified	Likely permit against municipalities	That he or she did not commit or suborn perjury, fabricate evidence, or otherwise make a false statement to cause or bring about such conviction or the conviction of another, with respect to the crime or crimes under subdivision (1) of this section, except that a guilty plea, a confession, or an admission, coerced by law enforcement and later found to be false, does not constitute bringing about his or her own conviction of such crime or crimes	Not specified	5 state statute awards from 2010 through 2012, totaling \$1,830,000
NH	NH Stat § 541-B:14	1977, amd. most recently 2007	"Found innocent"	Board must find by majority vote that claim is "justified"	Board of Claims	3 years	\$20,000 cap	Not specified	Likely permit against municipalities	Not specified	Not specified	
NJ	NJ Stat Ann §§ 52:4C-1 to 4C-6	1997	None specified	Clear and convincing	Superior Court	2 years from release or pardon	\$50,000 per year , reasonable attorney fees	Not specified	Not specified	Claimant did not, by his own conduct, cause or bring about conviction	Not specified	4 state statute awards from 1998 through 2009, totaling \$1,104,775 1 civil suit award in 2011 for \$1,000,000
NY	NY Ct. of Claims Act § 8-b	1984, amd. 2007	Pardon or conviction reversed and charges dismissed on grounds consistent with innocence or case tried to acquittal	Clear and convincing	Court of Claims	2 years	No limit	Not specified	Not specified	Claimant did not by his own conduct cause or bring about the conviction	Not specified	8 state statute awards from 1994 through 2009, totaling \$8,767,998 6 civil suit awards from 2002 through 2011, totaling \$30,600,000

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NC	NC Gen Stat §§ 148-82 to 148-84	1947; amd.2008	Pardon for innocence	Not specified	Industrial Commission makes a recommendation to Governor	5 years	\$0,000 each year Max. of \$750,000	Award may also include job skills training for at least one year and tuition reimbursement at any NC community college or constitution institution of the University of NC (claimants are also entitled to assistance in meeting any admissions standards, including satisfying requirements for completion of secondary education)	Not specified	Not specified	Contingency and Emergency Fund	6 state statute awards from 2000 through 2012, totaling \$1,581,865 1 civil suit award in 2004 for \$1,650,000

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OH	Ohio Rev Code Ann § 2305.02 & § 2743.48	1986; amd. 2002, 2010	Conviction vacated or reversed and charges dismissed	Preponderance of evidence; <i>Walden v. State</i> , 547 N.E.2d 962	Court of Common Pleas for liability; Court of Claims for damages	2 years	\$40,330 per year, (or amt. determined by state auditor) in addition to lost wages, costs, and attorney's fees	Within sixty days after the date of the entry of a court of common plea's determination that a person is a wrongfully imprisoned individual, the clerk of the court of claims shall forward a preliminary judgment to the president of the controlling board requesting the payment of fifty per cent of the amount described in division (E)(2)(b) of this section to the wrongfully imprisoned individual. The board shall take all actions necessary to cause the payment of that amount out of the emergency purposes special purpose account of the board	Not specified	Claimant must not have pled guilty	Not specified	2 state statute awards in 2010, totaling \$1,337,885 7 civil suit awards from 1995 through 2013, totaling \$21,429,989

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OK	51 Okl. St. § 154	1978, amd. 2003	Pardoned or conviction vacated and charges dismissed	Clear and convincing	State Civil Court	No time limit	\$175,000 cap no punitive damages	Not specified	Not specified	Claimant must not have pled guilty	Not specified	1 state statute award in 2004 for \$175,000 5 civil suit awards from 2002 through 2009, totaling \$16,250,000 (missing award amounts for three of the five)
TN	Tenn Code Ann §9-8-108	1984, amd. 2004; 2010	granted exoneration pursuant to § 40-27-109	Not specified	Board of Claims	1 year	\$1,000,000 cap	Not specified	Not specified	Not specified	Not specified	1 state statute award in 2004 for \$832,950

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TX	Tex Code Ann §§ 103.001;103.051; 052, 103.1041.	2001; amd. most recently 2011	full pardon on the basis of innocence; writ of habeas corpus based on a court finding or determination that the person is actually innocent or writ of habeas corpus and: (i) district court entered an order dismissing the charge; and (ii) district court's dismissal order based on motion to dismiss in which the state's attorney states that no credible evidence exists that inculpates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent	Preponderance of evidence	Comptroller's Judiciary Section	Not later than the third anniversary of the date the person on whose imprisonment the claim is based received the pardon or was granted relief	\$80,000 per year, plus an annuity; reintegration financial assistance that does not exceed \$10,000 Attorney fees, lost wages	counseling expenses for up to one year, child support arrears, tuition for up to 120 credit hours, including tuition and any mandatory fees associated with attendance at the institution 501.091: Development of a comprehensive plan to ensure the successful reentry and reintegration of wrongfully imprisoned person into community, including life-skills, job, and vocational training, provision of necessary documents SB1686: Eligibility to obtain group health benefit coverage through the TX Department of Criminal Justice as if the person were an employee of the Department	Bars (though see <i>State v. Oakley</i> , 227 S.W.3d 58 (Tex. 2007) (clarifying that claimant may first bring 1983 claim and then file claim under statute, but not vice versa))	Payments terminate if claimant is subsequently convicted of a crime punishable as a felony	Specific legislative appropriation	39 state statute awards from 1999 through 2013, totaling \$40,855,360 (missing year for ten of the 39) 5 civil suit awards from 1995 through 2012, totaling \$19,700,000

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UT	78-35a-405	2008	factual innocence under Utah 78-35a-402	Not specified (reliant upon eligibility finding)	District court where conviction was rendered	Petitioner must file for post-conviction relief (e.g. declaration of innocence) w/in 1 year of final judgment, or date on which petitioner should have known of new facts upon which petition is based - no separate limit for filing claim for compensation	For 15 years, petitioner may receive the monetary value of average annual nonagricultural payroll.	Office of Crime Victim' Reparation to make initial payment w/in 45 days of court finding of innocence	May permit against municipalities	Payments may be suspended if petitioner is convicted of a subsequent felony	Crime Victim Reparations Fund	
VA	8.01-195.10, et seq.	2004; amd. 2010	Conviction vacated pursuant to VA Chapter 19.2 or 19.3 or absolute pardon	Not specified	General Assembly	Not Specified	90% of the VA per capita personal income— for up to 20 yrs	Reimbursement up to \$10,000 for tuition for career and technical training in the VA Comm. College system; transition assistance grant worth \$15,000, which would be deducted from any award received pursuant to the statute	Bars	Claimant may not have pled guilty – unless he or she was charged with a capital offense or convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life. the person incarcerated did not by any act or omission on his part intentionally contribute to his conviction for the felony for which he was incarcerated. If the claimant is subsequently convicted of a felony, he or she becomes ineligible to receive further payments	Specific appropriation by the General Assembly	1 state statute award in 2009 for \$632,867 2 civil suit awards (one in 2006, missing year for the other), totaling \$3,000,000 10 private bill awards from 1990 through 2012, totaling \$5,152,829

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VT	13 V.S.A Chptr. 182	2007	As a result of DNA evidence, the conviction was reversed or vacated and the charges dismissed, or tried to an acquittal, or a pardon was granted	Preponderance of evidence	Washington County Supreme Court	3 years from exoneration, unless claimant was not provided with notice of the right to bring an action, in which case claimant shall be granted an additional year in which to file	Minimum of 30K per year - maximum of 60K per year of incarceration, adjusted proportionally for partial years served; Awards may include in addition: lost wages, costs, and attorneys fees	Claimant entitled to up to 10 years of eligibility for Vermont State Health Plan; Award is not taxable by state and no offset for cost of incarceration is allowed	Likely permit against municipalities	Claimant did not suborn perjury or fabricate evidence during any of the proceedings related to the crime with which he or she was charged	State Treasury with a reimbursement from the Emergency Board. However, if the State elects to self-insure for liability, an award will be paid from the Liability Self-Insurance Fund	
WA	House Bill 1341 2013-2014	2013	Pardoned for innocence, or the conviction was reversed or vacated and the charges were dismissed or acquittal on retrial	Clear and convincing	Superior Court	3 years from pardon, grant of judicial relief, release from custody. If the wrongly convicted person is not given proper notice of this act, they have an additional 12 months to file	50K for each year of confinement, an additional 50K for each year on death row. 25K for each year served on parole or as a registered sex offender, up to 75K in attorneys' fees	Compensation for child support owed, court and attorneys' fees. Entitled to free or low-cost reentry services. Claimant and child or step child entitled to waiver of all tuition and fees for state and regional universities.	Entitles to pursue any existing remedy. If another award is granted, claimant must reimburse state to the extent of the other award or the amount received under the statute, whichever is less	The claimant did not commit or suborn perjury, or fabricate evidence to cause the conviction.	Not specified	2 civil suit awards in 2013, totaling \$10,500,000
WV	W Va Code § 14-2-13(a)	1987	Pardon for innocence, or conviction reversed and either charges dismissed or acquittal on retrial	Clear and convincing	Court of Claims	2 years after pardon or dismissal	fair and reasonable damages	Not specified	Not specified	Claimant did not contribute to or bring about conviction	Not specified	5 civil suit awards from 1992 through 2003, totaling \$8,325,000 1 private bill award for \$2,000,000 (missing year)

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WI	Wis Stat § 775.05	1913; amd. 1987	None specified	Clear and convincing	Claims Board	Not specified	5K/yr, max 25K but Board may petition legislature for additional funds	Not specified	Not specified	Claimant did not contribute to or bring about conviction	Not specified	6 state statute awards from 1999 through 2012, totaling \$150,000 1 civil suit award in 2004 (missing award amount)
US (Fed)	28 USC § 1495 & § 2513	1948; amd. 2004	Pardon for innocence, or conviction reversed or set aside on ground that claimant is not guilty and found not guilty at new trial or rehearing	Not specified	U.S. Court of Federal Claims	Not specified	Up to \$50,000 per year; (\$100,000 per year for each year on death row)	Not specified	Not specified	Claimant did not commit acts charged and did not by misconduct or neglect cause prosecution		