

HB

55

<TARGET><BILL>HB 55</BILL><SUBJECT>HB
55</SUBJECT><COMM>HJUD29</COMM></TARGET>



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 1 Fairbanks

House Bill 55 Sponsor Statement

"An Act relating to compensation for wrongful conviction and imprisonment."

With increasing technology, DNA exonerations have been on the rise. There have been 325 post-conviction DNA exonerations with the vast majority coming since 2000. Each of these individuals spent time behind bars, an average of 13.6 years, and was released into a changed world. House Bill 55 gives these wrongfully imprisoned victims a chance to start a new life and integrate back into society.

Specifically, HB 55 creates an administrative process whereby victims of overturned criminal convictions can request compensation from the state for time served. They can be compensated up to \$50,000 per year with a cap at two million dollars. In order to qualify for the compensation, the claimant must have served time in prison and then have been exonerated via retrial, dismissed charges, or executive pardon because of innocence.

While there is no price on the emotional and personal suffering of those who were wrongfully imprisoned, HB 55 would bring Alaska up to the federal compensation standard to help right the state's wrong. Financial compensation would help victims of wrongful imprisonment repair their lives by covering costs of education, healthcare, housing and transportation.

This legislation will right the state's wrongs. Every innocent person, regardless of how they became incarcerated, deserves just compensation for the time they wrongly served. HB 55 is a stepping stone in a long process towards protecting all Alaskans.

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HB 55 Sectional Analysis

Section 1 of the bill adds wrongful conviction and imprisonment to AS 44.77.010(a) which provides for the presentation of money claims against the state to the Department of Administration.

Section 2 sets out the circumstances under which a person will be eligible for compensation for wrongful conviction and imprisonment:

AS 44.77.018(a) requires that for a person to obtain compensation, the person must first present the claim to the attorney general and show that the person was convicted of one or more offenses, was sentenced to a term of imprisonment, served part or all of the sentence, and:

- (1) That the conviction was vacated or reversed because the person was not guilty; or a pardon was granted on account of innocence and wrongful conviction
- (2) The person did not commit any of the crimes charged in the criminal action in which the person was convicted, and did not cause the conviction by committing perjury or induce another to commit perjury. A false confession or guilty plea to a crime the person did not commit is not considered a cause of conviction in this section.

AS 44.77.018(b) provides that a person is not entitled to compensation for a period of imprisonment that is served concurrently with a sentence for another offense.

AS 44.77.018(c) sets the requirement of the section at \$50,000 times the number of years of wrongful imprisonment, including fractions representing partial year, up to a maximum of \$2 million.

AS 44.77.018(d) prohibits a person who receives compensation under the section from bringing an action on the same subject matter involving the person's arrest, conviction, or length of confinement.

AS 44.77.018(e) requires that a claim must be filed within two years after the dismissal, not guilty verdict, or pardon on which the claim is based, except that the attorney general can authorize payment for a late-filed claim if the person shows good cause for the delay.

Section 3 a person making a claim from wrongful conviction and imprisonment may appeal the denial of the claim under the Administrative Procedures Act, but may not, unlike other claimants under AS 44.77.010, bring an action under AS 09.50.250 – 09.50.300 (claims against the state) if the Department of Administration fails to act under AS 44.77.

Section 4 provides that for claims for wrongful conviction and imprisonment, the claims process in AS 44.77.010 – 44.77.060 applies even if the agency to which the person applies (which in this case would be the Department of Law) has a mandatory claims procedure.

Chapter 44.77 CLAIMS AGAINST THE STATE

Sec. 44.77.010. Presentation of claims. (a) Except as provided in (d) of this section, every claim for reimbursement for money expended, or for compensation for labor, materials, or supplies furnished, or services given to or for the state, whether based on a contract or on a ratification, shall be promptly presented to the appropriate administrative or executive officer for approval and payment.

(b) *[Repealed, Sec. 14 ch 105 SLA 1986].*

(c) *[Repealed, Sec. 67 ch 106 SLA 1986].*

(d) A claim that is governed by AS 36.30.560 - 36.30.699 is not governed by this chapter.

Article 03. CLAIMS AGAINST THE STATE OR STATE EMPLOYEES Sec.

09.50.250. Actionable claims against the state. A person or corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in a state court that has jurisdiction over the claim. A person who may present the claim under AS 44.77 may not bring an action under this section except as set out in AS 44.77.040(c). A person who may bring an action under AS 36.30.560 - 36.30.695 may not bring an action under this section except as set out in AS 36.30.685. However, an action may not be brought if the claim

(1) is an action for tort, and is based upon an act or omission of an employee of the state exercising due care in the execution of a statute or regulation, whether or not the statute or regulation is valid; or is an action for tort, and based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion involved is abused;

(2) is for damages caused by the imposition or establishment of, or the failure to impose or establish, a quarantine or isolation, or by other actions, by the state or its agents, officers, or employees under AS 18.15.355 - 18.15.395, except for damages caused by negligent medical treatment provided under AS 18.15.355 - 18.15.395 by a state employee, or except that, if a state employee quarantines or isolates a person with gross negligence or in intentional violation of AS 18.15.385, the state shall pay to the person who was quarantined or isolated a penalty of \$500 for each day of the improper quarantine;

(3) arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(4) arises out of the use of an ignition interlock device certified under AS 33.05.020(c); or

(5) arises out of injury, illness, or death of a seaman that occurs or manifests itself during or in the course of, or arises out of, employment with the state; AS 23.30 provides the exclusive remedy for such a claim, and no action may be brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C. 30104 - 30105), in admiralty, or under the general maritime law.

Sec. 09.50.253. Actionable claims against state employees.

(a) Except as provided in (f) of this section, the remedy against the state provided by AS 09.50.250 for injury or loss of property or personal injury or death arising or resulting from an act or omission of a state employee while acting within the scope of the employee's office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of the employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

(b) A state employee against whom a civil action or proceeding is brought under (a) of this section shall deliver all pleadings and process served upon the employee, or a copy of the papers served, to the person designated by the head of the employee's agency to receive the papers and to the attorney general. The state employee shall deliver these documents within the time period established by the attorney general in a regulation adopted under this section. The initial delivery of these documents to the attorney general constitutes an agreement by the employee to cooperate with the attorney general in the state employee's defense of the action or proceeding and a consent that the attorney general conduct the defense as the attorney general considers advisable and in the best interests of the employee, including settlement in the attorney general's discretion.

(c) Upon certification by the attorney general that the state employee was acting within the scope of the employee's office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon the claim in a state court is considered an action or proceeding against the state under the provisions of this title, and the state is substituted as the party defendant. The civil action or proceeding certified under this subsection is subject to the same limitations and defenses applicable to an action or

proceeding against the state. The attorney general or the attorney general's designee shall defend the civil action or proceeding on behalf of the state.

(d) If the attorney general refuses to make the certification under (c) of this section, the state employee may, at any time before trial, petition the superior court to find and certify that the employee was acting within the scope of the employee's office or employment at the time of the incident out of which the claim arose. Upon certification by the court, the civil action is considered to be a civil action or proceeding brought against the state under the provisions of this title, and the state is substituted as the party defendant. Upon certification by the court, the state shall reimburse the state employee the employee's reasonable costs and attorney fees incurred in bringing the petition. A copy of the petition under this subsection shall be served upon the state in accordance with the provisions of Rule 4(d)(7), Alaska Rules of Civil Procedure. The petition to the superior court is the exclusive remedy to challenge the noncertification decision by the attorney general of a state employee under this section.

(e) A claim or suit for damages may not be filed against the state or the attorney general arising out of the process for certification under this section.

(f) This section does not extend or apply to a civil action or proceeding against an employee of the state that is brought for a violation of the Constitution of the United States or that is brought for a violation of a law of the state under which an action or proceeding against an employee is expressly authorized.

(g) The provisions of this section are in addition to and do not supersede a term in a state employee collective bargaining agreement addressing legal defense and indemnity.

(h) In this section,

(1) "acting within the scope of the employee's office or employment" means acts or omissions

(A) that the state employee is employed or authorized to perform;

(B) of the state employee that occur substantially within the authorized time and space limit;

(C) that are activated by a purpose to serve the state; and

(D) that do not constitute acting, or failing to act, with wilful, reckless, or intentional misconduct, or with gross negligence or malice;

(2) "state employee"

(A) means

(i) a permanent, probationary, seasonal,

temporary, provisional, or nonpermanent employee in the executive, legislative, or judicial branch of state government, whether in the classified, partially exempt, or exempt service; or

(ii) a person appointed to a board or commission of state government;

(B) does not include an employee of

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation; or

(iii) a political subdivision of the state,

including a regional educational attendance area.

Sec. 09.50.260. Undertaking. [Repealed, Sec. 2 ch 19 SLA 1975].

Repealed or Renumbered

Sec. 09.50.270. Payment of judgment against the state. An attachment or execution may not issue against the state. When a final judgment is rendered against the state in an action, the clerk of the court shall immediately transmit a certified copy of the judgment to the Department of Administration which shall either approve payment of the judgment against the state if a sufficient appropriation exists for payment, or audit the amount and transmit a copy to the legislature with the recommendation that an appropriation be made for its payment.

Sec. 09.50.280. Judgment for plaintiff; punitive damages. If judgment is rendered for the plaintiff, it shall be for the legal amount found due from the state with interest as provided under AS 09.30.070 and without punitive damages.

Sec. 09.50.290. Trial by court. [Repealed, Sec. 1 ch 147 SLA 1975].

Repealed or Renumbered

Sec. 09.50.300. Compromise by attorney general. Except as provided in AS 09.50.253, the attorney general may, with the approval of the court, arbitrate, compromise, or settle any action filed under AS 09.50.250 - 09.50.300.

Sec. 44.77.070. Applicability of AS 44.77.010 - 44.77.060. AS 44.77.010 - 44.77.060 do not apply to a department in the executive branch or to the legislative or judicial branches if that department or branch has adopted a mandatory claims and appeal procedure.

Riley Leonard

From: info@alaskainnocence.org
Sent: Monday, April 06, 2015 9:24 AM
To: Riley Leonard
Subject: RE: [Fwd: Compensation info]

I will be available at 3:30.

More information on the disparity of recoveries law suit vs. statute.

In addition to the difference in median award amounts (\$3,600,000 v. \$328,200), here are a few examples to illustrate how exonerees who receive civil settlements get much larger sums than those who are compensated through state statutes:

Civil Awards (in states with no compensation statutes...as far as I know)

Ray Krone (AZ) \$4,400,000
Larry Mayes (IN) \$4,500,000
William Gregory (KY) \$4,600,000
Eddie Lowery (KS) \$7,500,000

Statute Awards (some exonerees get both statute and civil awards but according to our records these people only got statute)

Joseph Frey (WI) \$25,000
Anthony Woods (MO) \$328,500
Arthur Mumphrey (TX) \$452,082
Robert Wilcoxson (NC) \$545,591

Bill

> Perfect. Thanks Bill. I'm putting together our opening statement and
> all the backup docs today. If everything stays on schedule (which is a
> 50/50 shot right now), then the boss and I will be talking about HB 55
> 3:30-5:30 today and I may give you a call to be on the phone as well if that's ok?
>
> Hope you had a great Easter weekend! My family came down to visit so
> it was a nice welcome break.
>
> Riley Leonard
> Chief of Staff
> Office of Representative Scott Kawasaki State Capitol, Room 418
> Juneau, AK 99801
> (907) 456-7423
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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

Indemnification for Unjust Conviction

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
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

Indemnification for Unjust Conviction

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
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	???	

Indemnification for Unjust Conviction

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
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	

Indemnification for Unjust Conviction

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
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

Indemnification for Unjust Conviction

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
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

Indemnification for Unjust Conviction

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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
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

Indemnification for Unjust Conviction

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
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

Indemnification for Unjust Conviction

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
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

Indemnification for Unjust Conviction

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
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 inculcates 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

Indemnification for Unjust Conviction

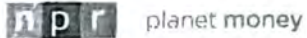
STATE	STATUTE	PASSED	ELIGIBILITY	STANDARD OF PROOF	WHO DECIDES	TIME LIMITS FOR FILING	MAXIMUM AWARDS	OTHER AWARDS	FUTURE CIVIL LITIGATION	CONTRIBUTORY PROVISIONS	FUNDING SOURCE	PAID OUT
UT	78-35a-405	2008	factual innocence under Utah 78-35a-402	Not specified (reliant upon eligibility finding)	District 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

Indemnification for Unjust Conviction

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
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)

Indemnification for Unjust Conviction

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
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		



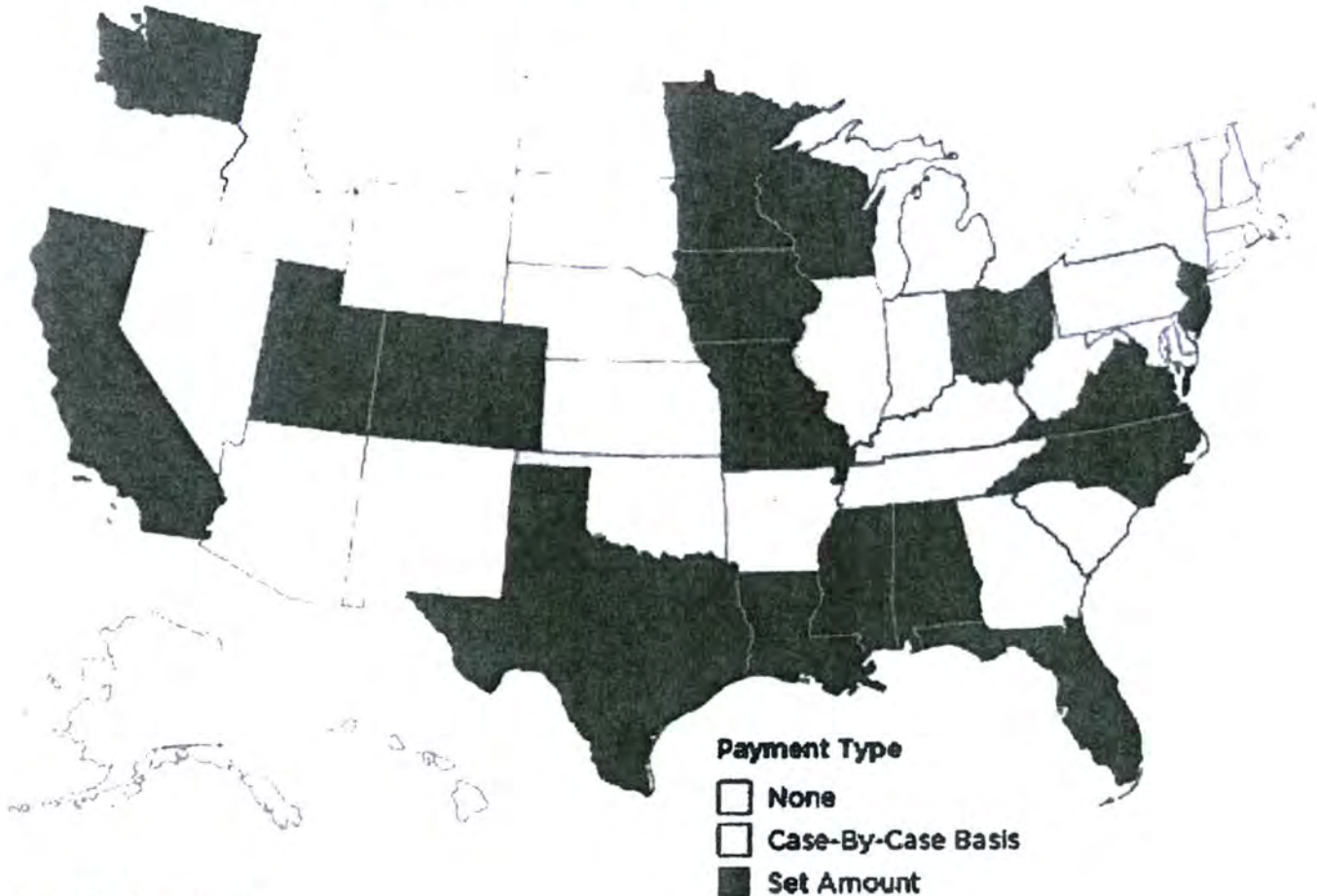
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When Innocent People Go To Prison, States Pay

JUNE 16, 2014 10:05 AM ET

GABRIELLE EMANUEL

Which States Pay The Wrongfully Convicted?



Innocence Project, Quoc Trung Buu/NPR

Suppose you spent five years in prison for a crime you didn't commit. How much does the government owe you?

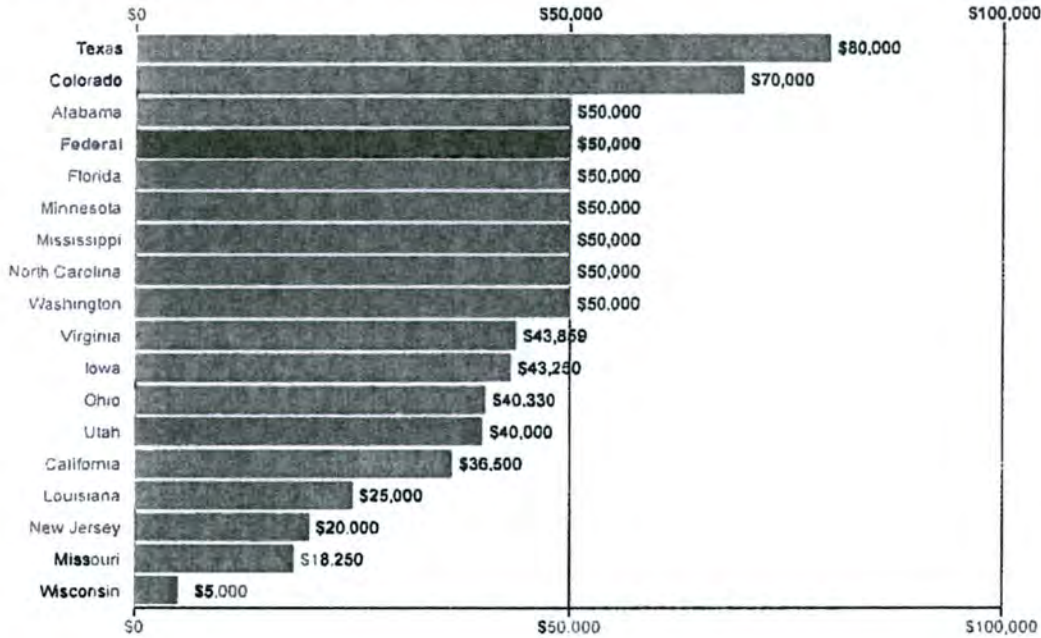
Over the past few decades, the rise of DNA exonerations has made this a more pressing question. And many states have created explicit policies to answer it.

But those policies vary wildly from state to state.

Twenty-one states provide no money — though people who are exonerated can sue for damages. Twelve states and the District of Columbia award damages on a case-by-case basis. Another 17 states pay a fixed amount per year of imprisonment.

Compensation For Each Year In Prison

States That Pay A Set Amount Per Year



Source: The Innocence Project and staff calculations.

And among states that pay a fixed amount per year, there's a huge range of payments.

Several states and the federal government offer \$50,000 per year for people wrongly convicted in federal court. Why is that such a common figure?

Federal payments were set by a law passed a decade ago. At that time, Alabama had the highest compensation at \$50,000 per year, so the feds simply decided to match that, according to Stephen Saloom, policy director at the Innocence Project. Other states may have followed the lead of the federal government.

"There doesn't seem to be any other rationale behind the number," said Paul Cates, also at the Innocence Project.

Guilty And Charged

One other interesting idea: States that pay the wrongfully convicted might actually be trying to save money, according to Brandon Garrett,

University of Virginia law professor and author of *Convicting the Innocent*.

That's because people who are exonerated can sue states — and sometimes win awards on the order of \$1 million per year of imprisonment, Garrett says.

In many states, people who are exonerated have to give up their right to sue in order to collect the set payment.

Policymakers may have decided that it's better for states "to encourage people to take more moderate compensation early on and maybe forgo the multimillion-dollar lawsuit," Garrett says.

New Jersey Statutes Annotated Currentness

Title 52. State Government, Departments and Officers

▣ Subtitle 1. General Provisions

→ Chapter 4C. Compensation for Persons Mistakenly Imprisoned

→ **52:4C-1. Persons mistakenly convicted and imprisoned; legal redress; burden of proof**

The Legislature finds and declares that innocent persons who have been convicted of crimes and subsequently imprisoned have been frustrated in seeking legal redress and that such persons should have an available avenue of redress to seek compensation for damages. The Legislature intends by enactment of the provisions of this act that those innocent persons who can demonstrate by clear and convincing evidence that they were mistakenly convicted and imprisoned be able to recover damages against the State.

In light of the substantial burden of proof that must be carried by such persons, it is the intent of the Legislature that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this section, may, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

→ **52:4C-2. Authority to bring suit**

a. Notwithstanding the provisions of any other law, any person convicted and subsequently imprisoned for one or more crimes which he did not commit may, under the conditions hereinafter provided, bring a suit for damages in Superior Court against the Department of the Treasury.

b. Any award of damages to such person in an action against the State or any political subdivision thereof or against any employee of the State or any political subdivision thereof with respect to the same subject matter shall be offset by any award of damages awarded under this act.

→ **52:4C-3. Burden and standard of proof**

The person (hereinafter titled, "the claimant") shall establish the following by clear and convincing evidence:

a. That he was convicted of a crime and subsequently sentenced to a term of imprisonment, served all or any part of his sentence; and

b. He did not commit the crime for which he was convicted; and

c. He did not commit or suborn perjury, fabricate evidence, or by his own conduct cause or bring about his conviction. Neither a confession or admission later found to be false shall constitute committing or suborning perjury, fabricating evidence, or causing or bringing about his conviction under this subsection; and

d. He did not plead guilty to the crime for which he was convicted.

→ **52:4C-4. Limitations**

The suit, accompanied by a statement of the facts concerning the claim for damages, verified in the manner provided for the verification of complaints in civil actions, shall be brought by the claimant within a period of two years after his release from imprisonment, or after the grant of a pardon to him; provided, however, that any eligible claimant released or pardoned during the five-year period prior to May 2, 1996 shall have two years from the effective date of this act to file a suit.

→ **52:4C-5. Damages; taxability**

a. (1) Damages awarded under this act shall not exceed the greater of:

(a) twice the amount of the claimant's income in the year prior to his incarceration; or

(b) \$50,000 for each year of incarceration.

(2) In the event that damages exceed \$1 million, the court may order that the award be paid as an annuity with a payout over a maximum period of 20 years. The court shall consider the best interests of the claimant in making such determination.

b. In addition to the damages awarded pursuant to subsection a., the claimant shall be entitled to receive reasonable attorney fees and costs related to the litigation. A claimant may also be awarded other non-monetary relief as sought in the complaint including, but not limited to vocational training, tuition assistance, counseling, housing assistance, and health insurance coverage as appropriate.

c. Damages awarded under this act shall not be subject to treatment as gross income to the claimant under the provisions of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

→ **52:4C-6. Persons serving time for other crimes**

a. A person serving a term of imprisonment for a crime other than a crime of which the person was mistakenly convicted shall not be eligible to file a claim for damages pursuant to the provisions of this act.

b. A person shall not be eligible to file a claim for damages pursuant to the provisions of this act if the sentence for the crime of which the person was mistakenly convicted was served concurrently with the sentence for the conviction of another crime.

→ **52:4C-7. Effective date for certain wrongful imprisonment claims**

The provisions of this amendatory and supplementary act (P.L.2013, c. 171) shall apply to any claimant released from imprisonment or granted a pardon on or after the effective date of this act.

END OF DOCUMENT

ALASKA INNOCENCE PROJECT

**WRITTEN TESTIMONY OF WILLIAM B. OBERLY, EXECUTIVE DIRECTOR
ALASKA INNOCENCE PROJECT, IN SUPPORT OF
HB 55 – AN ACT RELATING TO COMPENSATION FOR
WRONGFUL CONVICTION AND IMPRISONMENT
MARCH 5, 2015**

Thank you to the Members of the Alaska House of Representatives for giving me the opportunity to submit this written comment in support of HB 55.

Compensation for those who have been wrongfully incarcerated by the Alaska judicial system is the only way those wrongfully convicted can begin the road to normalcy. Memories of the agony of prison life and complete loss of freedom are often all a wrongfully convicted individual has when they leave prison. Through no fault of their own, the wrongfully convicted leave prison with no money, no housing, no transportation, no health services or insurance, and a criminal record often not cleared despite innocence.

Our criminal justice system provides assistance to those individuals who have been properly convicted and leave prison to reenter society. The same is not true for those who have been wrongfully convicted and had years of their lives stolen from them. Without an act of the legislature the only option open to the wrongfully convicted is a civil suit for the damages they suffered. Such a course forces those individuals to relive the degradations they have suffered and provides an uncertain result to both the wrongfully convicted and the State. Alaska has a responsibility to restore these innocent people's lives to the best of its ability.

By passing HB 55, Alaska will join the majority of states in recognizing its responsibility to the wrongfully convicted. Thirty states and the District of Columbia currently have compensation statutes of some form. Alaska could lead the remainder of the states on this righteous path.

The Alaska Innocence Project fully supports the passage of HB 55 to compensate wrongfully convicted people immediately after release with a set sum for each year of wrongful incarceration. The \$50,000.00 per year figure contained in HB 55 is consistent with the federal figure passed by Congress and endorsed by President George H. Bush. Any Alaska legislation should consider a periodic review of this amount to insure that the compensation for wrongful convictions keeps up with the cost of living in Alaska.

AKIP also urges the House to consider the inclusion in HB 55 of provisions for immediate help for those released after a finding of wrongful conviction. As stated above, our current judicial

and corrections systems have no provisions for the wrongfully convicted after release. They are literally shown the prison door with nothing. The wrongfully convicted should have, at a minimum, immediate financial support for basic necessities, including subsistence funds, food, transportation and help securing affordable housing. Those released after being wrongfully convicted will also need, and should also be provided, assistance with the development of workforce skills, and legal assistance to obtain public benefits, expungement of criminal records and to help regain custody of children lost during their incarceration. Finally, the wrongfully convicted, who are often in bad health after long incarceration, should be provided with medical and dental care and psychological and counselling services. Filling these basic needs of those released after periods of wrongful incarceration will go a long way to helping these individuals return to a "normal" life in Alaska.

HB 55 will also benefit the State of Alaska by providing some certainty following a finding that an individual has been wrongfully convicted and incarcerated. The alternative to a statutorily fixed sum to compensate the wrongfully incarcerated is a case by case suit. The awards in such actions could vary wildly, with there being no ceiling on the yearly payment. As an example, a court in Washington D.C. recently awarded a wrongfully convicted man \$1,000 per day for the twenty-two years he was incarcerated. Forcing the wrongfully incarcerated to rely solely on a civil suit is not only uncertain for the State, it would force the recently released individual to once again fight for the bare necessities of life.

AKIP urges the House to adopt HB 55 and to join the thirty other states in doing the right thing on behalf of those who have been wrongfully convicted in the State of Alaska.

Thank you for allowing me to address this very important legislation. If the committee has any questions on any matters arising from HB 55 which I might help answer, please don't hesitate to contact me.

William B. Oberly
Executive Director
Alaska Innocence Project

Four wrongfully convicted men, four very different outcomes

BY SASKIA DE MELKER *November 9, 2014 at 1:53 PM EDT*

Alan Newton, Jeffrey Deskovic, Drew Whitley, and Johnny Pinchback were all exonerated in the past decade. Credit: NewsHour

When a wrongfully convicted person gets released from prison, it is a major news event: Local television crews capture the first moments of freedom and the speeches on the steps of the state capital, audiences empathize as they grapple with gratitude and rage, and the exonerees take their first steps into an uncertain future.

Jeffrey Deskovic, who was in prison for 16 years after being wrongfully convicted for the rape and murder of his high school classmate, said it was the most surreal moment of his life: “It felt like a dream,” he said. “When I stepped up to the microphones at the press conference, I asked ‘Is this really happening?’”

But when the limelight fades, the wrongfully convicted face the reality of navigating the world they were yanked from, often with limited financial and social support.

According to the Innocence Project, it takes exonerees three years on average to receive any compensation after their release. More than a quarter get nothing. Among those who are paid, 81 percent get less than \$50,000 for each year of wrongful imprisonment.

NewsHour spoke to a number of exonerated men from different states about their experiences reintegrating post-release. All of them, regardless of compensation, say they would pay anything to have the years they lost in prison back.

Jeffrey Deskovic, New York

Age: 41

Exonerated: 2006

Years in Prison: 16 years

Compensation: Over \$13,000,000 (so far)

At age 16, Deskovic was wrongfully convicted of the rape and murder of his high school classmate. After nearly two decades behind bars, a DNA test finally exonerated him.

Those first five years were very difficult, he said. Released at age 33, he had never lived alone or even gotten a driver's license. "It was overwhelming. I felt like I didn't belong, like a fish out of water."

Deskovic filed federal civil rights lawsuits against the various municipalities and officials involved in his conviction. After an arduous and lengthy legal process, he was awarded more than \$13 million in 2011. Just last month he won a separate \$41 million dollar judgement.

"I would be willing to not only give the money back, I'd be willing to go into debt for that amount of money, maybe even double it, to have had my years back and had a normal life," said Deskovic.

Deskovic used part of his settlement money to set up his own foundation to help investigate other possible wrongful convictions across the country as well as offer financial and social support to other exonerees.

"I'm trying to make my suffering count for something," said Deskovic.

Johnny Pinchback, Texas

Age: 59

Exonerated: 2011

Years in Prison: 27 years

Compensation: \$2,133,333

Pinchback was convicted for the rape of two teenage girls, who misidentified him in a police lineup. It wasn't until another exonerated man (who had been in prison with Pinchback) helped him appeal for a DNA test that the evidence proved he was not the perpetrator.

Within months of being released he received a lump sum payment of approximately \$80,000 for each year he was in prison from the state of Texas, and he'll also continue to receive monthly annuity payments.

"It could never pay for the time I did [in prison] , but at least now I can have some peace." he said.

He said he is now enjoying a normal life. He bought a ranch outside of Dallas where he spends time with his wife, his mom, and his dogs. Pinchback served six years in the military prior to his conviction and prison time.

"After so many years of being told exactly what to do and where to be, I'm enjoying doing what I want to do."

Pinchback is just one of dozens of exonerees from Dallas County, which boasts more wrongfully convicted men than any other region in the country. He offers support and advice to other exonerees when they are let out.

"I warn them that everyone will be asking you for part of your [compensation] money once those checks start rolling in, whether they supported you during your prison time or not," said Pinchback. The advice he gives them: "Take care of the people you love, but don't let anyone take advantage of you."

Drew Whitley, Pennsylvania

Age: 58

Exonerated: 2006

Years in Prison: 18 years

Compensation: \$0

In 1989, Whitley was convicted for the murder of a young woman in Dusquene, Pennsylvania. He spent 18 years behind bars before DNA confirmed that hairs found in the ski mask of the killer did not belong to him, and he was set free.

He returned to his hometown of Braddock, Penn., where he spends most afternoons cleaning up the local meat shop in exchange for food. He gets by on a social security

check of about \$700 a month. Just over a year ago he moved out of his mother's home into an apartment that costs nearly half his monthly check.

Without a compensation package in Pennsylvania, Drew Whitley sued in federal court. Even though a judge agreed that police officers were negligent in their investigation of his case, she ruled against Whitley stating that he did not prove intentional misconduct. He lost his appeals of the decision.

In addition to his financial struggles, Whitley is still wrestling with the demons of his past. "Every time somebody walks up the hallway steps, I look out the peephole, because I think they might be coming to get me," he said. "I wake up with nightmares that I'm still locked up."

Alan Newton, New York

Age: 53

Exonerated: 2006

Years in Prison: 22 years

Compensation: \$0

Newton served 22 years in prison for the rape, robbery and assault of a young woman who misidentified him. He spent years appealing for a DNA test, which the police claimed to have lost. It was finally found and tested proving that Newton was not guilty.

He says people now know that he didn't do the crime but they have a different concern about him as an exoneree.

"They wonder if I picked up bad habits and became criminalized while I was in prison for all those years," he said. "I feel like I have to defend myself against that fear."

In 2010, he won a federal lawsuit and was awarded \$18.5 million by a jury. But Newton hasn't seen a dime of that money: a judge reversed the jury's verdict stating that Newton didn't sufficiently prove intentional misconduct in his case, only negligence. Newton appealed but four years later, he's still awaiting a decision from an appellate court. "It's very frustrating, but I've learned patience with the legal system" he said.

Even without any compensation, Newton has made the most of his exonerated life. He got his Bachelor's degree in business administration and now works for the City University of New York as a research associate. He speaks frequently about law enforcement practices leading to wrongful convictions and plans to apply for law school.

Still, he feels he can't truly move on.

"At this point, it's not even about blaming someone. I just want closure and to be able to move on with life. That's what the money is about as much as anything else," he said.