

SENATE FILE NO. SF0030

Compensation for persons exonerated based on DNA evidence.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal procedure; authorizing
2 compensation for persons exonerated based on DNA testing;
3 specifying conditions, requirements and limitations on
4 authorized compensation; retaining governmental immunity as
5 specified; conforming provisions; providing an
6 appropriation; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-12-316 is created to read:

11

12 **7-12-316. Compensation.**

13

14 (a) A movant is eligible for compensation as provided
15 in this section if:

16

1 (i) The court entered an order of actual
2 innocence and exoneration pursuant to W.S. 7-12-310(c) or
3 (d);

4
5 (ii) The movant has served in whole or in part a
6 sentence of imprisonment for the conviction for which the
7 order of actual innocence and exoneration was entered; and

8
9 (iii) At the time of serving the sentence for
10 which the actual innocence and exoneration order was
11 entered, the movant was not serving and had not been
12 ordered to serve a concurrent or consecutive sentence of
13 imprisonment for a separate conviction.

14
15 (b) Subject to the appropriation of funds by the
16 legislature and other limitations of this section, a movant
17 who meets the eligibility criteria in subsection (a) of
18 this section shall be provided compensation in the amount
19 of one hundred dollars (\$100.00) per day while actually
20 incarcerated not to exceed a total of five hundred thousand
21 dollars (\$500,000.00).

22
23 (c) The department of administration and information
24 shall administer the provision of compensation provided for

1 in this section and may promulgate rules as it deems
2 necessary to implement this section.

3

4 (d) A movant who meets the eligibility criteria
5 established in subsection (a) of this section may present
6 an application not more than two (2) years from entry of
7 the order of actual innocence and exoneration to the office
8 of the attorney general. If the attorney general determines
9 the movant is eligible for compensation under this section
10 and the amount of the compensation under subsection (b) of
11 this section is equal to or less than fifty thousand
12 dollars (\$50,000.00), payment to the movant shall be made
13 in a lump sum. If the movant is determined eligible for
14 compensation under subsection (b) of this section in excess
15 of fifty thousand dollars (\$50,000.00), the movant shall
16 receive an initial payment of fifty thousand dollars
17 (\$50,000.00) and the remaining amount shall be provided by
18 distributing funds appropriated for purposes of this
19 section to the state treasurer to annuitize the remaining
20 balance. The annuity shall provide equal payments to the
21 movant of fifty thousand dollars (\$50,000.00) annually
22 until the balance has been paid. The annuity shall provide
23 that it shall not be sold, discounted, or used as
24 securitization for loans or mortgages. The annuity may

1 include a beneficiary designated by the movant who shall be
2 a spouse or immediate family and shall provide for the
3 annuity's continued disbursement to the beneficiary in the
4 event of the movant's death. In the event the movant dies
5 before the expiration of the two (2) year period for
6 presenting an application, the movant's estate may present
7 an application for the compensation which is authorized to
8 be provided under subsection (b) of this section provided
9 the application is presented within the time specified in
10 this subsection. The estate shall not be eligible for
11 compensation unless it complies with all provisions and
12 requirements of this section which would have applied to
13 the movant.

14

15 (e) A movant may not receive compensation if he has
16 any action pending, has obtained a judgment or has settled
17 an action or claim against a governmental entity or an
18 employee of any governmental entity involving the
19 conviction for which the order of actual innocence and
20 exoneration was entered.

21

22 (f) Compensation to a movant may not be offset by any
23 expenses incurred by a governmental entity, including
24 expenses to secure custody of the movant and expenses to

1 feed, clothe, house and provide medical care for the
2 movant.

3

4 (g) A movant who receives compensation may not bring
5 any action against any governmental entity or an employee
6 of any governmental entity involving the conviction for
7 which the order of actual innocence and exoneration was
8 entered.

9

10 (h) A movant shall not receive compensation unless
11 the movant signs a release and waiver on behalf of himself
12 and his heirs, successors and assigns, forever releasing
13 all governmental entities and their employees in the
14 employees' official and individual capacity from all
15 present and future claims involving the conviction for
16 which the order of actual innocence and exoneration was
17 entered. The release shall provide that any payment to the
18 movant does not constitute a waiver of sovereign immunity.

19

20 (j) The provisions of the Wyoming Administrative
21 Procedure Act are not applicable to the grant or denial of
22 compensation under this section.

23

1 (k) The payment of compensation under this section
2 does not constitute a waiver of sovereign immunity.

3

4 (m) A movant is not entitled to compensation unless
5 sufficient funds have been appropriated to the department
6 of administration and information to provide compensation
7 authorized under this section.

8

9 **Section 2.** W.S. 1-39-104(a), 1-39-120 by creating a
10 new subsection (b) and 7-12-303(a) by creating a new
11 paragraph (iii) and by amending and renumbering (iii) as
12 (iv) are amended to read:

13

14 **1-39-104. Granting immunity from tort liability;**
15 **liability on contracts; exceptions.**

16

17 (a) A governmental entity and its public employees
18 while acting within the scope of duties are granted
19 immunity from liability for any tort except as provided by
20 W.S. 1-39-105 through 1-39-112 and limited by W.S.
21 1-39-121. Any immunity in actions based on a contract
22 entered into by a governmental entity is waived except to
23 the extent provided by the contract if the contract was
24 within the powers granted to the entity and was properly

1 executed and except as provided in W.S. 1-39-120(b) and
2 1-39-121. The claims procedures of W.S. 1-39-113 apply to
3 contractual claims against governmental entities.

4
5 **1-39-120. Exclusions from waiver of immunity.**

6
7 (b) Notwithstanding the waiver of immunity for tort
8 liability provided by W.S. 1-39-105 through 1-39-112 or the
9 waiver of immunity in actions based on contract provided by
10 W.S. 1-39-104, a governmental entity and its public
11 employees while acting within the scope of duties are
12 immune from a civil action in tort, contract or otherwise
13 alleging, in whole or in part, improper denial of
14 compensation provided for in W.S. 7-12-316.

15
16 **7-12-303. New trial; motion for post-conviction**
17 **testing of DNA; motion contents; sufficiency of**
18 **allegations, consent to DNA sample; definitions,**
19 **compensation.**

20
21 (a) As used in this act:

22
23 (iii) "Governmental entity" means a governmental
24 entity as defined by W.S. 1-39-103;

1

2 ~~(iii)~~(iv) "This act" means W.S. 7-12-302 through
3 ~~7-12-315~~7-12-316.

4

5 **Section 3.** There is appropriated three hundred
6 thousand dollars (\$300,000.00) from the general fund to the
7 treasurer's office. This appropriation shall be for the
8 period beginning with the effective date of this act and
9 ending June 30, 2016. This appropriation shall only be
10 expended for the purpose of annuitized payments pursuant to
11 W.S. 7-12-316(d). Notwithstanding any other provision of
12 law, this appropriation shall not be transferred or
13 expended for any other purpose and any unexpended,
14 unobligated funds remaining from this appropriation shall
15 revert as provided by law on June 30, 2016. This
16 appropriation shall be included in the treasurer's 2017-
17 2018 standard biennial budget request.

18

19 **Section 4.** This act is effective July 1, 2014.

20

21

(END)