

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; and providing for an  
6 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 seventy-five dollars (\$75.00) per day while actually  
20 incarcerated not to exceed a total of three hundred  
21 thousand dollars (\$300,000.00).

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  
8 general services division of the department of  
9 administration and information. If the department  
10 determines the movant is eligible for compensation under  
11 this section and the amount of the compensation under  
12 subsection (b) of this section is equal to or less than  
13 thirty thousand dollars (\$30,000.00), payment to the movant  
14 shall be made in a lump sum. If the movant is determined  
15 eligible for compensation under subsection (b) of this  
16 section in excess of thirty thousand dollars (\$30,000.00),  
17 the movant shall receive an initial payment of thirty  
18 thousand dollars (\$30,000.00) and the remaining amount  
19 shall be provided by distributing funds appropriated for  
20 purposes of this section to the state treasurer to  
21 annuitize the remaining balance. The annuity shall provide  
22 equal payments to the movant of thirty thousand dollars  
23 (\$30,000.00) annually until the balance has been paid. The  
24 annuity shall provide that it shall not be sold,

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

15

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

22

23 (f) Compensation to a movant may not be offset by any  
24 expenses incurred by a governmental entity, including

1 expenses to secure custody of the movant and expenses to  
2 feed, clothe, house and provide medical care for the  
3 movant.

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

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

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

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:

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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.**

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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;

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

3 ~~7-12-315~~ 7-12-316.

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5       **Section 3.** This act is effective July 1, 2014.

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7 (END)