

HOUSE BILL No. 1067

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-2-1; IC 5-2-23.

Synopsis: Remedies for exonerated individuals. Provides that a person whose conviction is vacated on the basis of DNA evidence is entitled to compensation in the amount of \$35,000 for each year that the person was wrongfully incarcerated in the department of correction. Establishes the DNA exoneration fund (fund). Appropriates \$350,000 to the fund. Specifies that the attorney general shall administer the fund and receive and investigate claims for compensation from the fund.

Effective: July 1, 2017.

Porter

January 4, 2017, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1067

A BILL FOR AN ACT to amend the Indiana Code concerning corrections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-2-1, AS AMENDED BY P.L.215-2016,
2 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 1. (a) The attorney general shall prosecute and
4 defend all suits instituted by or against the state of Indiana, the
5 prosecution and defense of which is not otherwise provided for by law,
6 whenever the attorney general has been given ten (10) days' notice of
7 the pendency of the suit by the clerk of the court in which the suit is
8 pending, or whenever the governor or a majority of the officers of state
9 require the attorney general in writing, with reasonable notice, to
10 prosecute or defend a suit. The attorney general shall represent the state
11 in all criminal cases in the Supreme Court, and shall defend all suits
12 brought against the state officers in their official relations, except suits
13 brought against them by the state; and the attorney general shall be
14 required to attend to the interests of the state in all suits, actions, or
15 claims in which the state is or may become interested in the Supreme
16 Court of this state.
17 (b) The attorney general may not defend a member (as defined in



1 IC 2-2.1-4-5) in an action for legislative bolting brought under
2 IC 2-2.1-4.

3 (c) **The attorney general shall, in accordance with IC 5-2-23:**

4 (1) **administer the DNA exoneration fund (as established by**
5 **IC 5-2-23-6); and**

6 (2) **receive and investigate claims for compensation from**
7 **persons whose convictions were vacated on the basis of DNA**
8 **evidence.**

9 SECTION 2. IC 5-2-23 IS ADDED TO THE INDIANA CODE AS
10 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2017]:

12 **Chapter 23. Compensation for Wrongfully Incarcerated**
13 **Persons**

14 **Sec. 1. This chapter applies to a person:**

15 (1) **sentenced after June 30, 2017, to the department of**
16 **correction as the result of a criminal conviction;**

17 (2) **whose conviction is vacated in whole or in part on the basis**
18 **of DNA evidence; and**

19 (3) **who is:**

20 (A) **not retried for; or**

21 (B) **retried and not convicted of;**

22 **the crime for which the person was initially convicted and**
23 **that was vacated on the basis of DNA evidence.**

24 **Sec. 2. This chapter does not apply to a conviction that is**
25 **vacated entirely on a basis other than DNA evidence.**

26 **Sec. 3. (a) Subject to section 4 of this chapter, and except as**
27 **provided in section 5 of this chapter, a person to whom this chapter**
28 **applies is entitled to compensation in the amount of thirty-five**
29 **thousand dollars (\$35,000) for each year that the person was**
30 **incarcerated in the department of correction (including a facility**
31 **under contract to the department of correction) for a conviction**
32 **that was vacated on the basis of DNA evidence. Compensation for**
33 **a partial year of incarceration shall be calculated on a pro rata**
34 **basis.**

35 (b) **A person is not entitled to compensation under this chapter**
36 **for time spent in pretrial detention.**

37 **Sec. 4. A person to whom this chapter applies is entitled to**
38 **compensation under this chapter only if the person waives all other**
39 **claims against the state for monetary damages based on the**
40 **person's vacated conviction.**

41 **Sec. 5. (a) A person is entitled to compensation for only the**
42 **period of incarceration that is solely attributable to the conviction**



1 that is vacated on the basis of DNA evidence. A person is not
2 entitled to compensation for the part of a sentence that is served
3 concurrently with a sentence for a conviction that is not vacated.

4 (b) The maximum amount of compensation that a person may
5 receive under this chapter is thirty-five thousand dollars (\$35,000)
6 per year, regardless of the number of convictions vacated on the
7 basis of DNA evidence.

8 Sec. 6. (a) The DNA exoneration fund is established for the
9 purpose of carrying out this chapter. The fund shall be
10 administered by the attorney general.

11 (b) The fund consists of appropriations from the general
12 assembly.

13 (c) The expenses of administering the fund shall be paid from
14 money in the fund.

15 (d) The treasurer of state shall invest the money in the fund not
16 currently needed to meet the obligations of the fund in the same
17 manner as other public money may be invested. Interest that
18 accrues from these investments shall be deposited in the fund.

19 (e) Money in the fund at the end of a state fiscal year does not
20 revert to the state general fund.

21 Sec. 7. (a) A person whose conviction has been vacated on the
22 basis of DNA evidence may seek compensation under this chapter
23 by applying to the office of the attorney general on a form and in
24 a manner to be determined by the attorney general. An applicant
25 shall submit additional evidence upon request of the attorney
26 general.

27 (b) Upon receipt of a completed application under this section,
28 plus any additional evidence required by the attorney general, the
29 attorney general shall investigate the claim.

30 (c) If, at the conclusion of the investigation, the attorney general
31 determines that the applicant qualifies for compensation under this
32 chapter, the attorney general shall pay the compensation due the
33 applicant from the DNA exoneration fund in accordance with this
34 chapter.

35 (d) If the balance in the DNA exoneration fund is not adequate
36 to fully compensate an applicant entitled to compensation, the
37 attorney general may prorate compensation.

38 (e) The attorney general may adopt rules under IC 4-22-2 to
39 carry out the attorney general's duties under this chapter.

40 (f) A determination by the attorney general under this section
41 is a final appealable order.

42 SECTION 3. [EFFECTIVE JULY 1, 2017] (a) There is



1 **appropriated from the state general fund to the DNA exoneration**
2 **fund (established by IC 5-2-23-6, as added by this act) for the**
3 **biennium beginning July 1, 2017, and ending June 30, 2019, three**
4 **hundred fifty thousand dollars (\$350,000) for the purpose of**
5 **carrying out IC 5-2-23, as added by this act.**

6 **(b) This SECTION expires June 30, 2019.**

