

HOUSE BILL No. 1283

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-23.

Synopsis: Burden of proof for exoneration payments. Provides that a person applying to the Indiana criminal justice institute seeking compensation for wrongful incarceration must prove that he or she is actually innocent by a preponderance of the evidence.

Effective: July 1, 2022.

**Steuerwald, Thompson, Smaltz,
Porter**

January 10, 2022, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1283

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-2-23-2, AS ADDED BY P.L.165-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 2. **(a)** As used in this chapter, "actually innocent"
4 means, with respect to a particular offense, that a person:
5 (1) did not commit the offense; and
6 (2) did not:
7 (A) commit;
8 (B) take part in; or
9 (C) plan, prepare for, or participate in the planning or
10 preparation of;
11 any other criminal act in connection with that offense.
12 The mere fact that the trier of fact acquitted or did not convict the
13 person on remand is insufficient, standing alone, to establish that the
14 person is actually innocent.
15 **(b) An applicant must prove that he or she is actually innocent**
16 **by a preponderance of the evidence.**
17 SECTION 2. IC 5-2-23-8, AS AMENDED BY P.L.165-2021,



1 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2022]: Sec. 8. (a) A person to whom this chapter applies may
3 seek compensation under this chapter by applying to the criminal
4 justice institute on a form and in a manner to be determined by the
5 criminal justice institute. An application must be submitted not later
6 than:

7 (1) November 1, 2021; or

8 (2) two (2) years from the date the:

9 (A) judgment vacating, reversing, or setting aside the person's
10 conviction becomes final; or

11 (B) governor pardons the person;

12 whichever is later. An applicant shall submit additional evidence to the
13 criminal justice institute upon request by the criminal justice institute.

14 (b) An applicant must demonstrate the following in any application
15 submitted to the criminal justice institute:

16 (1) The applicant's eligibility, **by a preponderance of the**
17 **evidence**, for compensation under this chapter as described in this
18 chapter.

19 (2) The applicant's compliance with any rules promulgated or
20 required by the criminal justice institute pursuant to section 9 of
21 this chapter.

22 (c) Upon receipt of:

23 (1) a completed application; and

24 (2) any additional evidence required by the criminal justice
25 institute;

26 the criminal justice institute shall evaluate, investigate, and make a
27 determination with respect to an applicant's claim.

28 (d) If, at the conclusion of an investigation performed pursuant to
29 subsection (c), the criminal justice institute determines that the
30 applicant qualifies for compensation under this chapter, the criminal
31 justice institute shall pay any compensation due to the applicant,
32 subject to the requirements of subsections (e) and (f).

33 (e) This subsection applies to any application or compensation
34 owed, regardless of when the application was initially submitted or a
35 payment of the compensation was initially made. The criminal justice
36 institute may not pay, or continue to pay, compensation to an applicant
37 who:

38 (1) has received an award for restitution or damages described in
39 section 1 of this chapter in connection with the conviction;

40 (2) has a pending case that might result in an award for restitution
41 or damages described in section 1 of this chapter with respect to
42 the conviction;



1 (3) has not executed the waiver described in section 4 of this
2 chapter;
3 (4) is ~~serv~~ing a term of imprisonment **currently incarcerated in**
4 **a county, city, or federal jail or prison or in an institution**
5 **operated by the department of correction** for a crime other than
6 a crime for which the individual was wrongfully incarcerated; or
7 (5) is ~~serv~~ing a term of imprisonment **after currently**
8 **incarcerated due to** the revocation of parole or probation for a
9 crime other than a crime for which the individual was wrongfully
10 incarcerated.
11 However, after a term of imprisonment described in subdivision (4) or
12 (5) has concluded, the criminal justice institute shall resume paying
13 compensation to the individual.
14 (f) The criminal justice institute may only pay compensation to the
15 individual who was wrongfully incarcerated or, on behalf of the
16 individual, to the individual's guardian. The criminal justice institute
17 may not pay compensation to:
18 (1) the estate of;
19 (2) a fiduciary of;
20 (3) a trust on behalf of; or
21 (4) an assignee of;
22 the wrongfully incarcerated individual.

