

HOUSE BILL NO. HB0040

Compensation for persons exonerated based on DNA.

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; conforming provisions; and
5 providing for an effective date.

6

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

8

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

10

11 **7-12-316. Compensation.**

12

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

15

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 entry of the order of
10 actual innocence and exoneration, the movant was not
11 serving and had not been ordered to serve a concurrent or
12 consecutive sentence of imprisonment for a separate
13 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 incarcerated not
20 to exceed three hundred thousand dollars (\$300,000.00).

21
22 (c) The department of administration and information
23 shall administer the provision of compensation provided for
24 in this section.

1

2 (d) A movant who meets the eligibility criteria
3 established in subsection (a) of this section may present
4 an application not more than two (2) years from entry of
5 the order of actual innocence and exoneration to the
6 general services division of the department of
7 administration and information. If the department
8 determines the movant is eligible for compensation under
9 this section and the amount of the compensation under
10 subsection (b) of this section is equal to or less than
11 thirty thousand dollars (\$30,000.00), payment to the movant
12 shall be made in a lump sum. If the movant is determined
13 eligible for compensation under subsection (b) of this
14 section in excess of thirty thousand dollars (\$30,000.00),
15 the movant shall receive an initial payment of thirty
16 thousand dollars (\$30,000.00) and the remaining amount
17 shall be provided by distributing funds appropriated for
18 purposes of this section to the state treasurer to
19 annuitize the remaining balance. The annuity shall provide
20 equal payments to the movant of not more than thirty
21 thousand dollars (\$30,000.00) annually until the balance
22 has been paid. The annuity shall provide that it shall not
23 be sold, discounted, or used as securitization for loans or
24 mortgages. The annuity may include a beneficiary designated

1 by the movant who shall be a spouse or immediate family and
2 shall provide for the annuity's continued disbursement to
3 the beneficiary in the event of the movant's death. In the
4 event the movant dies before the expiration of the two (2)
5 year period for presenting an application, the movant's
6 estate may present an application for the compensation
7 which is authorized to be provided under subsection (b) of
8 this section provided the application is presented within
9 the time specified in this subsection.

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11 (e) The number of days for which compensation is
12 provided under subsection (b) of this section shall be
13 reduced proportionately for the number of days the movant's
14 sentence of imprisonment was served concurrently with a
15 sentence of imprisonment for a separate conviction.

16

17 (f) A movant may not receive compensation if he has
18 any action pending 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 (g) 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 (h) 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 (j) 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 (k) The provisions of the Wyoming Administrative
22 Procedure Act are not applicable to the grant or denial of
23 compensation under this section.

24

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

3

4 (n) A movant is not entitled to compensation unless
5 funds have been appropriated to the department of
6 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.**

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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;

