

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 ENROLLED ACT No. 1283

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

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

SECTION 1. IC 5-2-23-2, AS ADDED BY P.L.165-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. **(a)** As used in this chapter, "actually innocent" means, with respect to a particular offense, that a person:

- (1) did not commit the offense; and
- (2) did not:
  - (A) commit;
  - (B) take part in; or
  - (C) plan, prepare for, or participate in the planning or preparation of;any other criminal act in connection with that offense.

The mere fact that the trier of fact acquitted or did not convict the person on remand is insufficient, standing alone, to establish that the person is actually innocent.

**(b) An applicant must prove that he or she is actually innocent by a preponderance of the evidence.**

SECTION 2. IC 5-2-23-8, AS AMENDED BY P.L.165-2021, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) A person to whom this chapter applies may seek compensation under this chapter by applying to the criminal justice institute on a form and in a manner to be determined by the



criminal justice institute. An application must be submitted not later than:

- (1) November 1, 2021; or
- (2) two (2) years from the date the:
  - (A) judgment vacating, reversing, or setting aside the person's conviction becomes final; or
  - (B) governor pardons the person;

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

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

- (1) The applicant's eligibility, **by a preponderance of the evidence**, for compensation under this chapter as described in this chapter.
- (2) The applicant's compliance with any rules promulgated or required by the criminal justice institute pursuant to section 9 of this chapter.

(c) Upon receipt of:

- (1) a completed application; and
- (2) any additional evidence required by the criminal justice institute;

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

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

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

- (1) has received an award for restitution or damages described in section 1 of this chapter in connection with the conviction;
- (2) has a pending case that might result in an award for restitution or damages described in section 1 of this chapter with respect to the conviction;
- (3) has not executed the waiver described in section 4 of this chapter;
- (4) is ~~servng a term of imprisonment~~ **currently incarcerated in a county, city, or federal jail or prison or in an institution**



**operated by the department of correction** for a crime other than a crime for which the individual was wrongfully incarcerated; or (5) is **serv**ing a **term of imprisonment after currently incarcerated due to** the revocation of parole or probation for a crime other than a crime for which the individual was wrongfully incarcerated.

However, after a term of imprisonment described in subdivision (4) or (5) has concluded, the criminal justice institute shall resume paying compensation to the individual.

(f) The criminal justice institute may only pay compensation to the individual who was wrongfully incarcerated or, on behalf of the individual, to the individual's guardian. The criminal justice institute may not pay compensation to:

- (1) the estate of;
- (2) a fiduciary of;
- (3) a trust on behalf of; or
- (4) an assignee of;

the wrongfully incarcerated individual.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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