



## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### Synopsis:

Senate Bill 51 amends Section 31-16-7 NMSA 1978, regarding recovery from a defendant, to exclude any monetary relief awarded to a person under the bill's proposed Wrongful Conviction Compensation Act from being used as a basis for recovering the costs of legal assistance or other benefits provided to the person under the Indigent Defense Act. The bill also makes conforming and other phrasing and grammatical changes throughout Section 31-16-7.

SB 51 then amends Section 37-2-1 NMSA 1978, regarding what causes of action survive, to add a cause of action under the bill's proposed Wrongful Conviction Compensation Act to the list of causes of action that survive the death of a party.

Finally, SB 51 proposes to enact the "Wrongful Conviction Compensation Act". The proposed Act spans Sections 3 through 14 of SB 51:

Section 3: Short title.

Section 4: Provides definitions of "Alford plea", "conviction", "exoneration", "felony offense", "imprisonment", "misdemeanor offense", and "wrongful conviction" as used in the proposed Act.

Section 5: Provides the jurisdiction and venue for actions initiated pursuant to the proposed Act.

Section 6: Sets forth the requirements and procedures for petitions filed under the proposed Act, including the requirements for proving a claim, the State's defenses, and the timeline for setting a hearing on the petition and providing notice.

Section 7: Requires that a court shall give a person written notice of their rights under the proposed Act whenever it overturns, reverses, or vacates a conviction, enters a writ of habeas corpus discharging a person from imprisonment, or upon remand from an appellate court, an order of dismissal or a judgment of acquittal or conviction pursuant to an Alford plea. This Section also requires the governor to give a pardoned person notice of their rights under the proposed Act upon issuing the pardon, and provides a six-year statute of limitations for claims under the proposed Act, which can be extended by four years if certain conditions are met.

Section 8: Prescribes the monetary relief that a petitioner shall be entitled to if their petition is granted, including compensation per year of incarceration plus compensation for actual damages as a result of the person's wrongful conviction. Actual damages under this Section include lost wages, pain and suffering or emotional distress, fines, fees or restitution or child support arrearage and interest on that arrearage. This Section also provides for reimbursement of the wrongfully convicted person's reasonable attorney fees.

Section 9: Requires that if a court approves a person's petition for exoneration in accordance with the proposed Act, it shall enter an order expunging all publicly available records of the person's arrest, prosecution, conviction and sentence related to the felony offense for which the

petition was filed, as well as an order directing the attorney general to provide the exonerated person with a letter stating that the person was wrongfully convicted of the offense for which the individual was exonerated and listing the time periods the person was wrongfully imprisoned, on probation or parole, or other subject to the requirements of the Sex Offender Registration and Notification Act.

Section 10: Prohibits sovereign immunity as a defense to a petition filed under the Wrongful Conviction Compensation and Services Act.

Section 11: Provides that the provisions of the proposed Act shall operate retroactively, and that retroactive actions pursuant to the proposed Act that accrue before July 1, 2026 shall be filed on or before June 30, 2032.

Section 12: Provides that: (A) the proposed Act shall be liberally construed to carry out its purposes, (B) a court hearing a petition under the proposed Act shall give consideration to the difficulties of proof caused by the passage of time and other listed factors when the court is exercising its discretion regarding the admissibility and weight of evidence, and (C) a judgment made pursuant to the proposed Act or evidence that a petition was granted or denied shall not be admissible evidence in any other proceeding.

Section 13: Creates the Wrongful Conviction Compensation Fund.

Section 14: Provides for financial assistance when a person is released from imprisonment pursuant to a pardon, an order overturning, reversing, or vacating the person's conviction, or a writ of habeas corpus. The assistance includes a one-time stipend of \$6,000.00 and a monthly payment of \$1,000.00.

Section 15: Appropriates nine million dollars from the general fund, non-reverting, to the Wrongful Conviction Compensation Fund for expenditure in fiscal year 2027 and subsequent years.

Section 14: Provides an effective date of July 1, 2026.

## **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

## **SIGNIFICANT ISSUES**

In Section 9 of SB 51, a court is required to expunge all publicly available records related to the felony offense for which the petition was filed if the petition is granted under the provisions of the proposed Wrongful Conviction Compensation Act, but the same is not provided for misdemeanor offenses. It is not clear whether that omission is intentional.

As of December 2024, the most recent national survey available, 39 U.S. jurisdictions and the federal government have statutes in place to provide compensation to the wrongly incarcerated, some of which date back as far as 1913. New Mexico and eleven other states do not have

compensation statutes. See “Compensation Statutes: A National Overview” created by Adele Bernhard and the Innocence Project and updated by The National Registry of Exonerations at the University of Michigan, available here:

<https://exoneratiregistry.org/sites/exoneratiregistry.org/files/documents/Compensation%20Statutes%2C%20National%20Overview.pdf>.

The National Registry of Exonerations has recorded 22 exonerations in New Mexico since 1975, with the most recent being in 2025. Seven exonerations occurred between 2020 and 2025. The list of exonerated individuals can be viewed on the National Registry of Exonerations website:

[https://exoneratiregistry.org/cases?f%5B0%5D=n\\_pre\\_1989%3A0&f%5B1%5D=n\\_pre\\_1989%3A1&f%5B2%5D=state%3ANew%20Mexico&search\\_api\\_fulltext=&order=custom\\_204&sort=asc](https://exoneratiregistry.org/cases?f%5B0%5D=n_pre_1989%3A0&f%5B1%5D=n_pre_1989%3A1&f%5B2%5D=state%3ANew%20Mexico&search_api_fulltext=&order=custom_204&sort=asc).

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**