

1 SENATE BILL

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Antoinette Sedillo Lopez

10 AN ACT

11 RELATING TO WRONGFUL CONVICTIONS; ENACTING THE WRONGFUL
12 CONVICTION COMPENSATION ACT; DEFINING TERMS; PROVIDING FOR A
13 PERSON WHO CLAIMS TO HAVE BEEN WRONGFULLY CONVICTED OF A
14 MISDEMEANOR OR FELONY OFFENSE IN STATE COURT TO PETITION THE
15 COURT FOR AN EXONERATION; PROVIDING FOR COMPENSATION, DAMAGES
16 AND OTHER RELIEF FOR A PERSON WHO IS EXONERATED; PROVIDING
17 REQUIREMENTS FOR JURISDICTION, VENUE AND NOTICE; IMPOSING
18 LIMITATIONS ON ACTIONS; WAIVING SOVEREIGN IMMUNITY; PROVIDING
19 FOR RETROACTIVE OPERATION AND LIMITATION ON RETROACTIVE
20 ACTIONS; PROVIDING FOR MISCELLANEOUS INTERPRETATION, PROCEDURAL
21 AND EVIDENTIARY RULES; CREATING THE WRONGFUL CONVICTION
22 COMPENSATION FUND AND PROVIDING FOR HOW AWARDS SHALL BE PAID;
23 MAKING CONFORMING AMENDMENTS TO THE INDIGENT DEFENSE ACT AND
24 SECTION 31-16-7 NMSA 1978 (BEING LAWS 1968, CHAPTER 69, SECTION
25 64); MAKING AN APPROPRIATION.

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1
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

3 SECTION 1. Section 31-16-7 NMSA 1978 (being Laws 1968,
4 Chapter 69, Section 64) is amended to read:

5 "31-16-7. RECOVERY FROM DEFENDANT.--

6 A. The district attorney may, on behalf of the
7 state, recover payment or reimbursement ~~[as the case may be]~~
8 from ~~[each]~~ a person who ~~[has]~~ received legal assistance or
9 another benefit ~~[under]~~ pursuant to the Indigent Defense Act:

10 (1) to which ~~[he]~~ the person was not entitled;

11 (2) ~~[with respect to which he]~~ if the person
12 was not a needy person when ~~[he]~~ the person received ~~[it]~~ the
13 assistance or benefit; or

14 (3) ~~[with respect to which he has]~~ if the
15 person failed to make the ~~[certificate]~~ certification required
16 by Subsection B of Section [62B of the Indigent Defense Act]
17 31-16-5 NMSA 1978 and ~~[for which he]~~ refuses to pay ~~[Suit must]~~
18 for the assistance or benefit that the person received.

19 B. An action pursuant to the provisions of
20 Subsection A of this section shall be brought within six years
21 [after] from the date ~~[on which the aid]~~ the assistance or
22 benefit was received.

23 [B.] C. The district attorney may, on behalf of the
24 state, recover payment or reimbursement ~~[as the case may be]~~
25 from ~~[each]~~ a person ~~[either than a person]~~ not covered by

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1 Subsection A of this section who has received legal
2 assistance under the Indigent Defense Act and who, on the date
3 on which suit is brought the action is filed, is financially
4 able to pay or reimburse the state for it according to the
5 standards of ability to pay applicable under the Indigent
6 Defense Act but refuses to do so; Suit must provided that a
7 person's ability to pay shall not be determined based on
8 monetary relief awarded to the person in accordance with the
9 Wrongful Conviction Compensation Act. An action pursuant to
10 this subsection shall be brought within three years after the
11 date on which the] from the date the assistance or benefit was
12 received.

13 [C.] D. Amounts recovered [under] pursuant to this
14 section shall be paid to the state treasurer for credit to the
15 state general fund."

16 SECTION 2. Section 37-2-1 NMSA 1978 (being Laws 1884,
17 Chapter 5, Section 1, as amended) is amended to read:

18 "37-2-1. WHAT CAUSES OF ACTION SURVIVE.--In addition to
19 the causes of action [which] that survive at common law, the
20 following causes of action shall also survive:

21 A. causes of action for mesne profits or for an
22 injury to real or personal estate or for any deceit or fraud,
23 [shall also survive, and the action may be brought]
24 notwithstanding the death of the person entitled or liable to
25 the same; [The]

1 B. a cause of action for wrongful death and [the] a
2 cause of action for personal injuries shall survive the death
3 of the party responsible [therefor] for the death or injuries;
4 and

5 C. a cause of action provided for by the Wrongful
6 Conviction Compensation Act."

7 **SECTION 3.** [NEW MATERIAL] SHORT TITLE.--Sections 3
8 through 14 of this act may be cited as the "Wrongful Conviction
9 Compensation Act".

10 **SECTION 4.** [NEW MATERIAL] DEFINITIONS.--As used in the
11 Wrongful Conviction Compensation Act:

12 A. "Alford plea" means a guilty plea entered by a
13 defendant in a criminal case that consists of only a waiver of
14 trial accompanied by the defendant's protestations of innocence
15 and includes a nolo contendere plea entered by a defendant that
16 is accompanied by the defendant's protestations of innocence;

17 B. "conviction" includes the adjudication of a
18 child as a delinquent offender, youthful offender or serious
19 youthful offender as provided in the Delinquency Act;

20 C. "exoneration" means a formal declaration of a
21 person's innocence made by a court that clears the person of
22 all blame for a criminal offense for which the person was
23 previously convicted;

24 D. "felony offense" includes corresponding
25 delinquent acts, youthful offender offenses and serious

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1 youthful offender offenses as provided in the Delinquency Act;

2 E. "imprisonment" includes confinement in a jail or
3 an adult or a youth detention facility or commitment to a
4 hospital, an institution or a treatment center;

5 F. "misdemeanor offense" includes corresponding
6 delinquent acts as provided in the Delinquency Act; and

7 G. "wrongful conviction" means the conviction of a
8 person for a criminal offense that the person did not commit or
9 for a criminal offense that was not actually committed.

10 **SECTION 5. [NEW MATERIAL] JURISDICTION AND VENUE.**--An
11 action initiated pursuant to the Wrongful Conviction
12 Compensation Act shall be filed in the district court of the
13 county where the petitioner resides or in the first judicial
14 district court.

15 **SECTION 6. [NEW MATERIAL] PETITION FOR AN EXONERATION--**
16 **PARTIES--DEFENSES.**--

17 A. A person who claims to have been wrongfully
18 convicted in state court may petition a court for an
19 exoneration. The petition shall be filed against the state and
20 shall assert either an innocence per se claim or an innocence
21 claim, as provided in this section. The person shall have the
22 burden to prove the claim by a preponderance of the evidence,
23 and, if the court approves the person's petition, the person
24 shall be exonerated and entitled to compensation, damages and
25 other appropriate relief as provided in the Wrongful Conviction

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1 Compensation Act.

2 B. A person who asserts an innocence per se claim
3 shall prove that:

4 (1) the person was convicted of a misdemeanor
5 or felony offense;

6 (2) the person was sentenced for the
7 conviction and served all or part of the sentence; and

8 (3) the person's conviction was overturned,
9 reversed or vacated pursuant to court order or the person was
10 discharged from imprisonment pursuant to a writ of habeas
11 corpus, and the court order or writ were issued based on a
12 finding that:

13 (a) the person did not commit the
14 offense;

15 (b) the offense was not committed at
16 all; or

17 (c) in light of newly discovered
18 evidence, no reasonable juror would have convicted the person
19 of the offense.

20 C. A person who asserts an innocence claim shall
21 prove that the person:

22 (1) was convicted of a misdemeanor or felony
23 offense;

24 (2) was sentenced for the conviction and
25 served all or part of the sentence;

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(3) did not commit the offense or the offense was not committed at all; and

(4) was pardoned or that person's conviction was overturned, reversed or vacated and, if the conviction was overturned, reversed or vacated, that:

(a) the person's charge was dismissed, the person was retried and acquitted or the person was entitled to retrial but instead entered an Alford plea; and

(b) the person was not subsequently convicted of a lesser included felony offense that arose from the same facts that resulted in the previous conviction; provided that a conviction pursuant to an Alford plea is not a subsequent conviction for the purposes of this subparagraph.

D. The attorney general shall represent the state in proceedings initiated pursuant to this section; provided that the attorney general may appoint a district attorney to represent the state if the attorney general determines that a conflict of interest or other good cause requires the appointment.

E. A court shall dismiss a petition for an exoneration if the state asserts and proves at least one of the following defenses by a preponderance of the evidence:

(1) the person was an accomplice in the commission of offense at issue; or

(2) the person intentionally caused the

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1 person's conviction by fabricating evidence or committing
2 perjury at trial to prevent the actual perpetrator from being
3 convicted.

4 F. Upon the filing of a petition pursuant to this
5 section, a court shall serve notice on the attorney general and
6 schedule a hearing within ten days. The court shall hold the
7 hearing within one hundred eighty days from the date the
8 petition was filed, unless the court finds good cause to hold
9 the hearing at a later date.

10 SECTION 7. [NEW MATERIAL] NOTICE REQUIREMENTS--LIMITATION
11 ON ACTIONS.--

12 A. A court shall give a person written notice of
13 the rights provided for in the Wrongful Conviction Compensation
14 Act whenever the court enters:

15 (1) an order overturning, reversing or
16 vacating the person's misdemeanor or felony conviction;

17 (2) a writ of habeas corpus discharging the
18 person from imprisonment that was ordered as the sentence for
19 the person's misdemeanor or felony conviction; or

20 (3) upon remand from an appellate court, an
21 order of dismissal or a judgment of acquittal or conviction
22 pursuant to an Alford plea for the misdemeanor or felony charge
23 against the person.

24 B. The written notice required in Subsection A of
25 this section shall include a copy of the Wrongful Conviction

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Compensation Act and copies of related rules or forms promulgated by the supreme court. The court giving notice shall obtain the person's written acknowledgment that the person received the notice and shall file the acknowledgment with the court.

C. Upon issuing a pardon, the governor shall give the person pardoned written notice of the rights provided for in the Wrongful Conviction Compensation Act, a copy of that act and copies of related rules or forms promulgated by the supreme court. The governor shall obtain the person's written acknowledgment that the person received the notice and shall maintain the acknowledgment as an official record.

D. An action initiated pursuant to the Wrongful Conviction Compensation Act shall be filed no later than six years from the date the person received notice in accordance with this section; provided that:

(1) the six-year period may be extended by four years if:

(a) the person obtains new evidence that is material to the person's claim;

(b) the new evidence could not have been obtained earlier with reasonable diligence; and

(c) the person obtained the new evidence within the last two years of the six-year period; or

(2) an otherwise expired six-year period may

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be reopened for a period of four years if:

- (a) the person obtains new evidence that is material to the person's claim; and
- (b) the new evidence could not have been obtained earlier with reasonable diligence.

SECTION 8. [NEW MATERIAL] MONETARY RELIEF.--

A. Except as provided in Subsections B and C of this section, a person who is exonerated in accordance with the Wrongful Conviction Compensation Act shall be entitled to:

(1) compensation as follows:

(a) a minimum of seventy-five thousand dollars (\$75,000) for each year the person was imprisoned, prorated by the day for any partial years;

(b) a minimum of fifty thousand dollars (\$50,000) for each year the person was released on probation or parole and for each year the person was not on probation or parole but was subject to the requirements of the Sex Offender Registration and Notification Act, prorated by the day for any partial years; and

(c) if the person was imprisoned and awaiting the execution of a death sentence, a minimum of an additional twenty-five thousand dollars (\$25,000) for each year the person was imprisoned, prorated by the day for any partial years;

(2) the person's actual damages incurred as a

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result of the person's wrongful conviction, including lost wages, pain and suffering or emotional distress, fines, fees or restitution or child support arrearage and interest on the arrearage; and

(3) the person's reasonable attorney fees, costs and expenses; provided that, if attorney fees, costs and expenses are awarded, the person's attorney shall not collect other fees, costs or expenses from or on behalf of the person.

B. Compensation provided for in Paragraph (1) of Subsection A of this section:

(1) shall not be awarded to a person:

(a) for any year or partial year the person was imprisoned or on probation or parole while serving a concurrent sentence for a separate intact conviction unrelated to the conviction for which the person was exonerated unless the concurrent sentence for the separate intact conviction was:

1) extended or otherwise enhanced due to the conviction for which the person was exonerated; or 2) the result of an Alford plea entered after the conviction for which the person was exonerated was overturned, reversed or vacated or after the person was discharged from imprisonment on that conviction pursuant to a writ of habeas corpus; provided that the person shall prove by a preponderance of the evidence that the person did not commit the offense underlying the separate intact conviction or that the offense was not committed at all; or

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(b) for any year or partial year the person was subject to the requirements of the Sex Offender Registration and Notification Act and was not on probation or parole if the person was otherwise subject to the requirements of that act for a separate conviction unrelated to the conviction for which the person was exonerated; and

(2) shall be adjusted on July 1, 2027 and July 1 of each subsequent year based on the cost-of-living measured by the percentage increase or decrease of the consumer price index, as determined by the United States department of labor for August of the immediately preceding year for all urban consumers in the west region; provided that the amount of the increase or decrease shall be rounded to the nearest multiple of ten thousand dollars (\$10,000); and provided further that the risk management division of the general services department shall determine and publish the cost-of-living adjustment on or before May 1 of the year the adjustment will take effect.

C. Compensation, damages and attorney fees, costs or expenses awarded to a person pursuant to this section:

(1) shall be paid to the person in a lump sum;

(2) may be reduced or subject to reimbursement only as follows:

(a) compensation awarded to the person

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1 noneconomic damages the person received pursuant to a judgment
2 or settlement in a civil action based on the same facts that
3 gave rise to the person's petition for an exoneration, not
4 including an amount of the previous award that was awarded or
5 used to pay for attorney fees, costs or expenses;

6 (b) damages awarded to the person shall
7 be reduced by an amount equal to a previous award of economic
8 damages the person received pursuant to a judgment or
9 settlement in a civil action based on the same facts that gave
10 rise to the person's petition for an exoneration, not including
11 an amount of the previous award that was awarded or used to pay
12 for attorney fees, costs or expenses;

13 (c) compensation or damages shall be
14 reimbursed to the state in the amount of a subsequent award of
15 noneconomic damages the person receives pursuant to a judgment
16 or settlement in a civil action based on the same facts that
17 gave rise to the person's petition for an exoneration, not
18 including an amount of the subsequent award that was awarded or
19 used to pay for attorney fees, costs or expenses; and

20 (d) attorney fees, costs or expenses
21 awarded to the person shall not be reduced or subject to
22 reimbursement.

23 SECTION 9. [NEW MATERIAL] OTHER RELIEF.--If a court
24 approves a person's petition for an exoneration in accordance
25 with the Wrongful Conviction Compensation Act, the court shall

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1 enter:

2 A. an order expunging all publicly available
3 records of the person's arrest, prosecution, conviction and
4 sentence related to the felony offense for which the petition
5 was filed, which shall:

6 (1) be directed to the corrections department
7 and any law enforcement agency, jail, district attorney and
8 court maintaining those records; and

9 (2) direct that the expungement be immediate
10 and in the manner, to the extent and with the same effect as
11 caused by an order to expunge issued pursuant to the Criminal
12 Record Expungement Act; and

13 B. an order directing the attorney general to,
14 within sixty days of the order, provide the person with a
15 letter, no longer than one page in length, that is signed by
16 and under the seal of the attorney general that:

17 (1) states that the person was wrongfully
18 convicted of the felony offense for which the eligibility claim
19 was filed; and

20 (2) lists the applicable time periods the
21 person was wrongfully imprisoned, on probation or parole or
22 otherwise subject to requirements of the Sex Offender
23 Registration and Notification Act.

24 **SECTION 10. [NEW MATERIAL] SOVEREIGN IMMUNITY WAIVED.--**
25 The state waives sovereign immunity from liability in actions

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1 pursuant to the Wrongful Conviction Compensation Act initiated
2 and maintained in state court.

3 **SECTION 11. [NEW MATERIAL] RETROACTIVE OPERATION--**
4 **LIMITATION ON RETROACTIVE ACTIONS.--**

5 A. The provisions of the Wrongful Conviction
6 Compensation Act shall operate retroactively.

7 B. Retroactive actions pursuant to the Wrongful
8 Conviction Compensation Act that accrue before July 1, 2026
9 shall be filed on or before June 30, 2032.

10 **SECTION 12. [NEW MATERIAL] MISCELLANEOUS INTERPRETATION,**
11 **PROCEDURAL AND EVIDENTIARY RULES.--**Unless otherwise provided by
12 the supreme court:

13 A. the Wrongful Conviction Compensation Act shall
14 be liberally construed to carry out its purpose;

15 B. a court hearing a petition filed pursuant to the
16 Wrongful Conviction Compensation Act shall give due
17 consideration to the difficulties of proof caused by the
18 passage of time, the death or unavailability of witnesses, the
19 destruction of evidence and other difficulties of proof not
20 caused by parties to the petition when the court is exercising
21 its discretion regarding the admissibility of and the weight
22 given to evidence presented by the person who filed the
23 petition; and

24 C. a judgment made pursuant to the Wrongful
25 Conviction Compensation Act or evidence that a petition for an

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1 exoneration was granted or denied shall not be admissible
2 evidence in any other proceeding.

3 **SECTION 13. [NEW MATERIAL] WRONGFUL CONVICTION**
4 COMPENSATION FUND.--

5 A. The "wrongful conviction compensation fund" is
6 created as a nonreverting fund in the state treasury. The fund
7 consists of appropriations, gifts, grants, donations and
8 bequests made to the fund, and income from the fund shall be
9 credited to the fund. The fund shall be administered by the
10 department of finance and administration, and money in the fund
11 is appropriated to the department for expenditures made
12 pursuant to the Wrongful Conviction Compensation Act.
13 Disbursements from the fund shall be made by warrant of the
14 secretary of finance and administration pursuant to an order
15 for relief issued by a district court in accordance with the
16 Wrongful Conviction Compensation Act.

17 B. Subject to the availability of money in the
18 wrongful conviction compensation fund, monetary relief awarded
19 pursuant to the Wrongful Conviction Compensation Act shall be
20 paid from that fund; otherwise, the state shall be liable for
21 the relief awarded.

22 **SECTION 14. [NEW MATERIAL] FINANCIAL ASSISTANCE UPON**
23 RELEASE.--

24 A. If a person is released from imprisonment
25 pursuant to a pardon, an order overturning, reversing or

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vacating the person's conviction or a writ of habeas corpus, the person is eligible for the following financial assistance:

(1) a stipend of six thousand dollars (\$6,000) to cover the person's immediate expenses for housing, utilities, food and medical care; and

(2) a monthly payment of one thousand dollars (\$1,000) for the person's ongoing re-integration expenses, which shall be paid to the person for six consecutive months beginning six months from the date the person is released from imprisonment.

B. A person who is eligible for financial assistance may submit an application to the department of finance and administration. The department of finance and administration shall verify an application upon receipt and shall disburse the assistance as provided in Subsection A of this section as soon as practicable.

SECTION 15. APPROPRIATION.--Nine million dollars (\$9,000,000) is appropriated from the general fund to the wrongful conviction compensation fund for expenditure in fiscal year 2027 and subsequent fiscal years to carry out the purposes of the Wrongful Conviction Compensation Act. Any unexpended balance remaining at the end of a fiscal year shall not revert to the general fund.

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026.

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