

Idaho Wrongful Conviction Act

Issue Summary
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In 2021, Idaho lawmakers enacted a law to compensate those wrongfully convicted of crimes. Exonerees worked with legislators over two years to push the legislation through the process.

It is difficult to imagine being wrongfully convicted of an egregious crime; spending years of your life behind bars; being alienated from those you love and unable to appreciate the benefits of freedom. Those circumstances were a reality for the 2,774 people wrongfully convicted and exonerated since 1989 in the United States.¹ The criminal justice system depends on the accuracy of convictions.² However, wrongful convictions happen. In response, the federal government enacted the “Justice For All Act” to compensate persons wrongfully convicted and innocent of federal crimes.³

A majority of states similarly compensate the persons innocently convicted of state crimes.⁴ However, until recently Idaho was one of fifteen states that did not have a wrongful conviction compensation law and so did not provide funds to exonerees.⁵ In addition, exonerees did not receive the transition benefits provided to other persons released from prison.⁶

The Idaho Legislature introduced a bill in January of 2020 to provide a compensation claim for exonerees.⁷ Despite overwhelming legislative support, Governor Brad Little vetoed the bill, citing flaws in the process and lack of specified funding for the health insurance and other nonmonetary benefits provided in the bill.⁸ Lawmakers worked with the governor to come up

¹*Exonerations by State*, THE NAT’L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/Exonerations-in-the-United-States-Map.aspx> (last visited Apr. 19, 2021).

² *Wrongful Convictions*, NAT’L INST. OF JUST., <https://nij.ojp.gov/topics/justice-system-reform/wrongful-convictions> (last visited Feb. 15, 2021).

³ See 28 U.S.C. § 2513 (2004).

⁴ Innocence Project, *Key Provisions in Wrongful Conviction Compensation Laws*, NAT’L REGISTRY OF EXONERATIONS 1, <https://www.law.umich.edu/special/exoneration/Documents/Key-Provisions-in-Wrongful-Conviction-Compensation-Laws.pdf> (last visited Feb. 16, 2021) (thirty-five states and Washington DC have laws to compensate wrongfully convicted).

⁵ *Idaho Wrongful Conviction Act: Statement of Purpose on H.B. 384*, (Idaho 2020), <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2020/legislation/H0384SOP.pdf>; see also Innocence Project, *supra* note 4.

⁶ *Idaho Wrongful Conviction Act: Statement of Purpose on H.B. 384*, *supra* note 5.

⁷ H.B. 384, 65th Leg., 2d Reg. Sess. (Idaho 2020).

⁸ *Idaho Wrongful Conviction Act: H.R. 384 Governor’s Veto Letter* (March 30, 2020) [hereinafter *Veto Letter*], https://gov.idaho.gov/wp-content/uploads/sites/74/2020/03/transmittal-h384_veto_2020.pdf.

with a new, slightly different bill in 2021, which passed unanimously.⁹ Governor Little signed the bill into law on March 5, 2021.¹⁰

The new law amends Title 6 of the Idaho Code by adding a new chapter.¹¹ The chapter is titled “Idaho Wrongful Conviction Act” and provides a claim of compensation for the wrongfully convicted, creates the procedures for awarding compensation and damages, gives exonerees a certificate of innocence, and creates an innocence fund.¹²

First, the Idaho Wrongful Conviction Act provides a claim of compensation for a wrongfully convicted claimant.¹³ The claim will prevail if the exoneree proves by a preponderance of the evidence that, among other elements, he or she was convicted of a felony in Idaho and he or she was later found innocent.¹⁴ A claim can also be filed by a person closely related to someone wrongfully executed.¹⁵ Claimants entitled to judgment will receive damages pursuant to the act and a certificate of innocence expunging the associated arrest record.¹⁶

Next, the act sets forth the amount of damages awarded to successful claimants.¹⁷ A successful claimant will receive from the innocence fund \$62,000 per year of wrongful imprisonment, \$75,000 per year of wrongful imprisonment on death row, and at least \$25,000 per year on parole or as a registered sex-offender.¹⁸ Lastly, the act created an innocence fund.¹⁹ The innocence fund is a supply of money used for the purpose of compensating claimants.²⁰

The act does not automatically compensate those who had been wrongfully convicted in Idaho; instead, exonerees must file claims.²¹ There have been six exonerations in Idaho and four of those exonerees were expected to be eligible to file for compensation under the act.²² In support of the bill, exonerees Christopher Tapp and Charles Fain testified before lawmakers.²³

Christopher Tapp was coerced into confessing to the rape and murder of 18-year-old Angie Dodge and subsequently convicted.²⁴ Tapp spent twenty years in prison before being

⁹ Eric Grossarth, *Gov. Little Signs the Wrongful Conviction Act into Law Alongside Chris Tapp*, EAST IDAHO NEWS (March 5, 2021 4:49PM), <https://www.eastidahonews.com/2021/03/gov-little-signs-the-wrongful-conviction-act-into-law-alongside-chris-tapp/>.

¹⁰ S. 1027, 66th Leg., 1st Reg. Sess. (Idaho 2021).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Idaho S. 1027.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Idaho Wrongful Conviction Act: Statement of Purpose on S. 1027*, (Idaho 2021), <https://legislature.idaho.gov/sessioninfo/2021/legislation/s1027/>

²³ Grossarth, *supra* note 9.

²⁴ *Christopher Tapp*, NAT’L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5592> (last updated Feb. 10, 2021); Kevin Davis, *Fighting For Compensation in a State that Offers No Relief to the Wrongfully convicted*, ABA J. (April 27, 2020, 3:42 PM),

exonerated by DNA evidence.²⁵ Tapp was freed from the constraints of prison, but quickly faced new hardships: Tapp had no job, money, insurance, or housing.²⁶ The difficulty of reentering society was overwhelming for Tapp despite his proven innocence.²⁷ The state of Idaho had given him no resources to lead a new life. He could not cover his basic needs, let alone fulfill his dream of going to college for social work.²⁸

Charles Fain was wrongfully convicted of rape and murder of a nine-year-old girl and sentenced to death.²⁹ Fain remained on death row for seventeen years before being released in 2001 after DNA evidence cleared him of the crime.³⁰

With the new legislation in place, exonerees like Christopher Tapp and Charles Fain have a claim of compensation for the years they spent behind bars and assistance in getting their lives back on track.

<https://www.abajournal.com/web/article/fighting-for-compensation-in-a-state-that-offers-no-relief-to-the-wrongfully-convicted>; *see* Idaho v. Tapp, 136 Idaho 354, 33 P.3d 828 (Idaho Ct. App. 2001).

²⁵ *Christopher Tapp*, *supra* note 24.

²⁶ *Davis*, *supra* note 24.

²⁷ *See* *Davis*, *supra* note 24.

²⁸ *Davis*, *supra* note 24.

²⁹ *Charles Fain*, NAT'L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3209> (last updated May 6, 2020); *see* *State v. Fain*, 116 Idaho 82, 774 P.2d 252 (1989).

³⁰ *Charles Fain*, *supra* note 29.