

COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1500  
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 13, chapter 38, Arizona Revised Statutes, is  
3 amended by adding article 35, to read:

4 ARTICLE 35. ERRONEOUS CONVICTIONS

5 13-4296. Erroneous convictions; compensation

6 A. NOTWITHSTANDING ANY OTHER LAW, A CLAIMANT MAY BRING AN ACTION IN  
7 SUPERIOR COURT SEEKING COMPENSATION FROM THIS STATE IF THE CLAIMANT  
8 ESTABLISHES, BY A PREPONDERANCE OF THE EVIDENCE, THAT ALL OF THE FOLLOWING  
9 APPLY:

10 1. THE CLAIMANT WAS CONVICTED OF A FELONY AND SUBSEQUENTLY  
11 INCARCERATED.

12 2. THE CLAIMANT DID NOT COMMIT THE CRIME OR CRIMES FOR WHICH THE  
13 CLAIMANT WAS CONVICTED.

14 3. THE CLAIMANT DID NOT COMMIT PERJURY, FABRICATE EVIDENCE OR BY THE  
15 CLAIMANT'S OWN CONDUCT CAUSE OR BRING ABOUT THE CONVICTION. A CONFESSION  
16 OR ADMISSION LATER FOUND TO BE FALSE OR A GUILTY PLEA DOES NOT CONSTITUTE  
17 COMMITTING PERJURY, FABRICATING EVIDENCE OR CAUSING OR BRINGING ABOUT THE  
18 CONVICTION.

19 4. ONE OF THE FOLLOWING APPLIES:

20 (a) THE CLAIMANT WAS PARDONED BASED ON INNOCENCE.

21 (b) THE CLAIMANT'S JUDGMENT OF CONVICTION WAS REVERSED OR VACATED  
22 AND THE CHARGES WERE DISMISSED OR THE CLAIMANT WAS FOUND NOT GUILTY ON  
23 RETRIAL.

1 (c) THE CLAIMANT'S JUDGMENT OF CONVICTION WAS REVERSED OR VACATED  
2 AND THE CLAIMANT ENTERED AN ALFORD PLEA OR A PLEA OF NO CONTEST, WHILE  
3 MAINTAINING A CLAIM OF INNOCENCE, AFTER THE CONVICTION WAS OVERTURNED,  
4 REVERSED OR VACATED ON DIRECT APPEAL OR POSTCONVICTION REVIEW WHEN THE  
5 CLAIMANT WOULD OTHERWISE HAVE BEEN ENTITLED TO A NEW TRIAL.

6 B. ALL PLEADINGS SHALL BE ENTITLED "IN THE MATTER OF THE ERRONEOUS  
7 CONVICTION OF \_\_\_\_". THE CLAIMANT SHALL SERVE THE ATTORNEY GENERAL WITH A  
8 COPY OF THE CLAIM. THE COURT SHALL DECIDE THE CLAIM. THE ARIZONA RULES OF  
9 CIVIL PROCEDURE APPLY. THE ACTION SHALL BE BROUGHT IN THE COUNTY OF  
10 CONVICTION OR IN MARICOPA COUNTY.

11 C. THE CLAIMANT SHALL BRING THE CLAIM WITHIN TWO YEARS AFTER ONE OF  
12 THE FOLLOWING OCCURS:

13 1. THE CLAIMANT'S CONVICTION IS OVERTURNED OR VACATED AND THE  
14 CHARGES AGAINST THE CLAIMANT ARE DISMISSED, THE CLAIMANT IS FOUND NOT  
15 GUILTY ON RETRIAL OR THE CLAIMANT ENTERS A PLEA OF NO CONTEST, WHICHEVER  
16 OCCURS LATER.

17 2. THE CLAIMANT IS PARDONED BASED ON INNOCENCE.

18 3. THE EFFECTIVE DATE OF THIS SECTION IF THE CLAIMANT WAS CONVICTED,  
19 INCARCERATED AND RELEASED FROM CUSTODY BEFORE THE EFFECTIVE DATE OF THIS  
20 SECTION.

21 D. THE ATTORNEY GENERAL SHALL RESPOND WITHIN THIRTY DAYS TO THE  
22 CLAIM. THE ATTORNEY GENERAL MAY REQUEST A SINGLE THIRTY-DAY EXTENSION TO  
23 RESPOND ON A SHOWING OF GOOD CAUSE. THE PARTIES MAY STIPULATE TO AN  
24 ADDITIONAL EXTENSION OF TIME.

25 E. IF THE ATTORNEY GENERAL DOES NOT OBJECT IN THE RESPONSE, THE  
26 COURT SHALL ENTER AN ORDER GRANTING THE ERRONEOUS CONVICTION CLAIM. IF THE  
27 ATTORNEY GENERAL OBJECTS, THE COURT SHALL ORDER AND HOLD AN EVIDENTIARY  
28 HEARING. A COURT ORDER THAT GRANTS OR DENIES THE CLAIM SHALL INCLUDE  
29 FINDINGS OF FACT AND CONCLUSIONS OF LAW.

30 F. IF THE COURT ENTERS AN ORDER GRANTING THE CLAIM, THE COURT SHALL  
31 AWARD COMPENSATION AS FOLLOWS:

1           1. FOR EACH YEAR THE CLAIMANT WAS INCARCERATED, TWO HUNDRED PERCENT  
2 OF THE MEDIAN HOUSEHOLD INCOME IN THIS STATE AS IT EXISTED ON THE DATE THE  
3 CLAIMANT WAS INCARCERATED AND AS DETERMINED BY THE UNITED STATES DEPARTMENT  
4 OF HOUSING AND URBAN DEVELOPMENT AND ADJUSTED FOR INFLATION USING THE  
5 CONSUMER PRICE INDEX FOR URBAN CONSUMERS. THE AMOUNT FOR ANY PARTIAL YEAR  
6 SHALL BE PRORATED IN ORDER TO COMPENSATE THE CLAIMANT ONLY FOR THE PORTION  
7 OF THE YEAR IN WHICH THE CLAIMANT WAS INCARCERATED.

8           2. THE CLAIMANT MAY REQUEST MORE THAN THE AMOUNT OF COMPENSATION  
9 AWARDED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION. IF THE CLAIMANT  
10 REQUESTS ADDITIONAL COMPENSATION, THE COURT MUST HOLD AN EVIDENTIARY  
11 HEARING. THE COURT SHALL CONSIDER THE PRO PER STATUS OF THE CLAIMANT IN  
12 DETERMINING WHETHER ADDITIONAL COMPENSATION IS WARRANTED. THE CLAIMANT MAY  
13 PRESENT THE FOLLOWING EVIDENCE:

14           (a) WHETHER THE CLAIMANT WAS REQUIRED TO REGISTER PURSUANT TO  
15 SECTION 13-3821 AND FOR WHAT LENGTH OF TIME THE CLAIMANT COMPLIED WITH THE  
16 REGISTRATION REQUIREMENTS.

17           (b) EXPENSES FOR REINTEGRATIVE SERVICES AND MENTAL AND PHYSICAL  
18 HEALTH CARE COSTS THAT THE CLAIMANT INCURRED FOR THE TIME PERIOD BETWEEN  
19 THE CLAIMANT'S RELEASE FROM CUSTODY AND THE ENTRY OF JUDGMENT.

20           (c) UNREIMBURSED COSTS, FINES, FEES OR SURCHARGES THAT WERE IMPOSED  
21 ON THE CLAIMANT AS A RESULT OF THE ERRONEOUS CONVICTION AND THAT WERE PAID  
22 BY OR ON BEHALF OF THE CLAIMANT.

23           (d) UNREIMBURSED RESTITUTION THAT WAS PAID BY OR ON BEHALF OF THE  
24 CLAIMANT AS A RESULT OF THE ERRONEOUS CONVICTION.

25           (e) ANY OTHER DAMAGES THE CLAIMANT MAY HAVE SUFFERED ARISING FROM OR  
26 RELATED TO THE CLAIMANT'S ARREST, PROSECUTION, CONVICTION AND  
27 INCARCERATION.

28           3. REASONABLE ATTORNEY FEES AND COSTS OF NOT MORE THAN \$25,000  
29 UNLESS THE COURT AUTHORIZES A GREATER REASONABLE TOTAL ON A FINDING OF GOOD  
30 CAUSE SHOWN.

31           G. COMPENSATION AWARDED TO THE CLAIMANT PURSUANT TO THIS SECTION  
32 DOES NOT CONSTITUTE GROSS INCOME FOR THE PURPOSES OF TITLE 42 OR 43.

1           H. THE COURT SHALL ORDER THAT THE AWARD BE PAID IN ONE LUMP SUM TO  
2 THE CLAIMANT.

3           I. IN ADDITION TO THE COMPENSATION AWARDED PURSUANT TO SUBSECTION G  
4 OF THIS SECTION, THE CLAIMANT IS ENTITLED TO THE FOLLOWING SERVICES FROM  
5 LICENSED OR ACCREDITED STATE INSTITUTIONS, AGENCIES OR PROVIDERS WITHIN  
6 THIS STATE:

7           1. REIMBURSEMENT FOR MENTAL HEALTH TREATMENT FOR UP TO FIFTY-TWO  
8 CLINICAL HOURS AT A MAXIMUM OF \$250 PER HOUR WITHIN TWELVE MONTHS AFTER THE  
9 COURT'S ORDER AWARDING COMPENSATION.

10           2. REIMBURSEMENT FOR UP TO ONE HUNDRED TWENTY CREDIT HOURS AT ANY  
11 POSTSECONDARY EDUCATIONAL INSTITUTION, VOCATIONAL SCHOOL OR TRADE SCHOOL.

12           3. REIMBURSEMENT FOR UP TO FOUR FINANCIAL PLANNING OR LITERACY  
13 CLASSES OR CONSULTATIONS WITHIN TWELVE MONTHS AFTER THE COURT'S ORDER  
14 AWARDING COMPENSATION.

15           J. IF, AT THE TIME THE COURT ENTERS A JUDGMENT PURSUANT TO  
16 SUBSECTION F OF THIS SECTION, THE CLAIMANT HAS WON A MONETARY JUDGMENT  
17 AGAINST THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE IN A CIVIL  
18 ACTION RELATED TO THE ERRONEOUS CONVICTION OR HAS ENTERED INTO A SETTLEMENT  
19 AGREEMENT WITH THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE  
20 RELATED TO THE ERRONEOUS CONVICTION, THE COURT SHALL DEDUCT THE AMOUNT  
21 AWARDED IN THE ACTION OR THE AMOUNT RECEIVED IN THE SETTLEMENT AGREEMENT,  
22 LESS ANY SUMS PAID TO AN ATTORNEY OR FOR COSTS IN LITIGATING THE OTHER  
23 CIVIL ACTION OR OBTAINING THE SETTLEMENT AGREEMENT, FROM THE MONIES THAT  
24 THE CLAIMANT IS ENTITLED TO RECEIVE UNDER THIS SECTION. THE COURT SHALL  
25 INCLUDE IN THE JUDGMENT AN AWARD TO THIS STATE OF ANY AMOUNT THAT IS  
26 DEDUCTED PURSUANT TO THIS SUBSECTION.

27           K. IF SUBSECTION J OF THIS SECTION DOES NOT APPLY, ANY FUTURE  
28 DAMAGES THAT ARE AWARDED TO THE CLAIMANT RESULTING FROM AN ACTION BY THE  
29 CLAIMANT AGAINST ANY UNIT OF GOVERNMENT IN THIS STATE BY REASON OF THE  
30 ERRONEOUS CONVICTION SHALL BE OFFSET BY THE COMPENSATION AWARD RECEIVED  
31 UNDER THIS SECTION.

1 L. THE COMPENSATION AWARD MAY NOT BE OFFSET BY ANY EXPENSES INCURRED  
2 BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, INCLUDING THE  
3 FOLLOWING:

4 1. ANY EXPENSES THAT THIS STATE OR A POLITICAL SUBDIVISION OF THIS  
5 STATE INCURRED TO SECURE THE CLAIMANT'S CUSTODY OR TO FEED, CLOTHE OR  
6 PROVIDE MEDICAL SERVICES FOR THE CLAIMANT.

7 2. THE VALUE OF ANY SERVICES OR REDUCTION IN FEES FOR SERVICE, OR  
8 THE VALUE THEREOF TO BE PROVIDED TO THE CLAIMANT THAT MAY BE AWARDED TO THE  
9 CLAIMANT PURSUANT TO THIS SECTION.

10 M. IF THE COURT FINDS THAT THE CLAIMANT IS ENTITLED TO COMPENSATION,  
11 THE COURT SHALL ISSUE A FINDING THAT THE CLAIMANT WAS ERRONEOUSLY CONVICTED  
12 AND, AS A RESULT, SERVED A SPECIFIC AMOUNT OF TIME ERRONEOUSLY  
13 INCARCERATED. THE CLERK OF THE COURT SHALL SEND A CERTIFIED COPY OF THE  
14 ORDER TO THE DEPARTMENT OF ADMINISTRATION'S RISK MANAGEMENT REVOLVING FUND  
15 FOR PAYMENT FROM THE RISK MANAGEMENT REVOLVING FUND ESTABLISHED PURSUANT TO  
16 SECTION 41-622. THE DEPARTMENT OF ADMINISTRATION SHALL REMIT FROM THE RISK  
17 MANAGEMENT REVOLVING FUND THE PAYMENT TO THE CLAIMANT WITHIN FORTY-FIVE  
18 DAYS. ANY CLAIMS FOR REIMBURSEMENT UNDER SUBSECTION I OF THIS SECTION  
19 SHALL BE SUBMITTED TO THE ADMINISTRATION FOR APPROVAL AND PAID FROM THE  
20 RISK MANAGEMENT REVOLVING FUND WITHIN FOURTEEN DAYS AFTER RECEIPT.

21 N. NOTWITHSTANDING ANY OTHER LAW, ON ENTRY OF AN ERRONEOUS  
22 CONVICTION RULING, THE COURT SHALL:

23 1. ORDER THE ASSOCIATED CONVICTIONS AND ARRESTS EXPUNGED FROM ALL  
24 APPLICABLE STATE AND FEDERAL SYSTEMS AND THE RECORDS SEALED. THE COURT  
25 SHALL ENTER THE EXPUNGEMENT ORDER REGARDLESS OF WHETHER THE CLAIMANT HAS A  
26 HISTORICAL PRIOR FELONY CONVICTION. THE EXPUNGEMENT ORDER SHALL STATE ALL  
27 OF THE FOLLOWING:

28 (a) THE CLAIMANT'S CURRENT FULL NAME.

29 (b) THE CLAIMANT'S FULL NAME AT THE TIME OF ARREST AND CONVICTION,  
30 IF DIFFERENT THAN THE CLAIMANT'S CURRENT NAME.

31 (c) THE CLAIMANT'S SEX, RACE AND DATE OF BIRTH.

32 (d) THE OFFENSE FOR WHICH THE CLAIMANT WAS ARRESTED AND CONVICTED.

1 (e) THE DATES OF THE CLAIMANT'S ARREST AND CONVICTION.

2 (f) THE IDENTITY OF THE ARRESTING LAW ENFORCEMENT AGENCY AND  
3 CONVICTING COURT.

4 (g) THAT THE ORDER EXPUNGES ANY RECORD OF THE CLAIMANT'S ARREST,  
5 CHARGE, CONVICTION OR ADJUDICATION AND SENTENCE.

6 (h) THAT THE CLAIMANT'S CIVIL RIGHTS, INCLUDING THE RIGHT TO POSSESS  
7 FIREARMS, ARE RESTORED, UNLESS THE CLAIMANT IS OTHERWISE NOT ELIGIBLE FOR  
8 THE RESTORATION OF CIVIL RIGHTS ON GROUNDS OTHER THAN THE CONVICTION AT  
9 ISSUE.

10 (i) THAT THE CLERK OF THE COURT SHALL NOTIFY THE DEPARTMENT OF  
11 PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT  
12 AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

13 (j) THAT THE CLERK OF THE COURT SHALL SEAL ALL RECORDS RELATING TO  
14 THE EXPUNGED ARREST, CHARGE, CONVICTION OR ADJUDICATION AND SENTENCE AND  
15 ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE CLAIMANT OR THE CLAIMANT'S  
16 ATTORNEY.

17 2. DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO EXPUNGE AND DESTROY ANY  
18 BIOLOGICAL SAMPLES, INCLUDING DNA AND FINGERPRINT SAMPLES, RECEIVED BY THE  
19 DEPARTMENT PURSUANT TO SECTION 13-610. THE CLERK OF THE COURT SHALL SEND A  
20 CERTIFIED COPY OF THE ORDER TO THE DEPARTMENT OF PUBLIC SAFETY, WHICH SHALL  
21 IMPLEMENT THE ORDER AND PROVIDE CONFIRMATION OF THE ACTION TO THE  
22 COURT. THIS PARAGRAPH DOES NOT REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO  
23 EXPUNGE AND DESTROY SAMPLES OR A PROFILE RECORD THAT IS ASSOCIATED WITH THE  
24 CLAIMANT AND THAT RELATES TO AN UNRELATED OFFENSE.

25 0. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE  
26 EXPUNGED RECORD FROM THE DEPARTMENT'S RECORDS AND SHALL INFORM ALL  
27 APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT  
28 AT NO COST TO THE CLAIMANT. THE STATE DEPARTMENT OF CORRECTIONS SHALL SEAL  
29 AND SEPARATE THE EXPUNGED RECORD FROM THE DEPARTMENT'S RECORDS AND MAY NOT  
30 MAKE INFORMATION RELATED TO THE EXPUNGED CONVICTION PUBLICLY AVAILABLE  
31 THROUGH ANY DEPARTMENT DATABASE.

1 P. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN  
2 EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE CLAIMANT WAS  
3 ERRONEOUSLY CONVICTED AND THAT THE ARREST, CHARGE, CONVICTION OR  
4 ADJUDICATION AND SENTENCE ARE EXPUNGED AND MAY NOT MAKE ANY RECORDS OF THE  
5 EXPUNGED ARREST, CHARGE, CONVICTION OR ADJUDICATION AND SENTENCE AVAILABLE  
6 AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE CLAIMANT OR THE CLAIMANT'S  
7 ATTORNEY.

8 Q. PURSUANT TO THE EXPUNGEMENT ORDER, THE CLAIMANT SHALL BE TREATED  
9 AS NOT HAVING BEEN ARRESTED FOR OR CONVICTED OF THE EXPUNGED OFFENSE. THE  
10 EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE MAY NOT BE  
11 USED IN A SUBSEQUENT PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY  
12 PURPOSE. THE CLAIMANT MAY STATE THAT THE CLAIMANT HAS NEVER BEEN ARRESTED  
13 FOR, CHARGED WITH, ADJUDICATED DELINQUENT FOR, CONVICTED OF OR SENTENCED  
14 FOR THE OFFENSE THAT IS THE SUBJECT OF THE EXPUNGEMENT.

15 R. THE CLAIMANT MAY REQUEST THAT THIS ACTION AND ERRONEOUS  
16 CONVICTION RULING BE SEALED.

17 S. THE COURT'S DECISION TO GRANT OR DENY AN ERRONEOUS CONVICTION  
18 CLAIM IS NOT RES JUDICATA ON ANY OTHER PROCEEDINGS.

19 T. IF THE COURT DENIES AN ERRONEOUS CONVICTION CLAIM, THE CLAIMANT  
20 MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A,  
21 PARAGRAPH 3.

22 U. IF THE VICTIM HAS MADE A REQUEST FOR POSTCONVICTION NOTICE, THE  
23 ATTORNEY GENERAL SHALL PROVIDE THE VICTIM WITH NOTICE OF THE CLAIMANT'S  
24 CLAIM AND OF THE RIGHTS PROVIDED TO THE VICTIM IN THIS SECTION. UNLESS THE  
25 VICTIM CONSENTS, THE VICTIM MAY NOT BE COMPELLED TO SUBMIT TO AN INTERVIEW  
26 OR TESTIFY IN ANY PROCEEDING UNDER THIS SECTION.

27 V. IF THE COURT FINDS THAT THE CLAIMANT IS ENTITLED TO A JUDGMENT, A  
28 VICTIM AS DEFINED IN SECTION 13-4401 IS ENTITLED TO REIMBURSEMENT FOR  
29 MENTAL HEALTH TREATMENT FOR UP TO FIFTY-TWO CLINICAL HOURS WITHIN TWELVE  
30 MONTHS AFTER THE COURT'S ORDER AWARDING COMPENSATION AT A MAXIMUM OF \$250  
31 PER HOUR PURSUANT TO THE VICTIM COMPENSATION AND ASSISTANCE FUND  
32 ESTABLISHED BY SECTION 41-2407. THE VICTIM DOES NOT NEED TO ESTABLISH ANY

1 OTHER ELIGIBILITY REQUIREMENTS TO RECEIVE REIMBURSEMENT FOR MENTAL HEALTH  
2 SERVICES.

3 Sec. 2. Legislative findings

4 The legislature finds that:

5 1. Innocent persons who have been erroneously convicted of crimes  
6 have been uniquely victimized, have distinct struggles reentering society,  
7 have difficulty achieving legal redress due to a variety of substantive and  
8 technical obstacles in the law and should have an available avenue of  
9 redress over and above the existing tort remedies to seek compensation for  
10 damages.

11 2. Erroneously convicted persons suffer particular and substantial  
12 harm by being imprisoned for a crime they did not commit, including the  
13 loss of liberty, livelihood and financial opportunity, so the legislature  
14 intends that by enacting section 13-4296, Arizona Revised Statutes, as  
15 added by this act, persons who were erroneously convicted and unjustly  
16 robbed of their freedom should be able to receive monetary compensation and  
17 non-monetary services.

18 3. Erroneous convictions cause victims of crime unique harm, so the  
19 legislature intends to provide crime victims with mental health treatment  
20 services in recognition of the trauma crime victims undergo when the legal  
21 system fails them by erroneously convicting the wrong person."

22 Amend title to conform

And, as so amended, it do pass

DAVID LIVINGSTON  
CHAIRMAN

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