

Key Provisions in Wrongful Conviction Compensation Laws

1. **Provide at least \$50,000 per year of wrongful incarceration.** Federal compensation law provides \$50,000 per year of wrongful incarceration. The majority of the 35 states with wrongful conviction compensation laws provide \$50,000 or more (TX, CO, KS, OH, CA, CT, VT, AL, FL, HI, IN, MI, MN, MS, NJ, NV, NC, WA).
2. **Reasonable standard of proof for eligibility.** Claimant should have to establish by preponderance of evidence that he or she did not commit the crime or related acts. "The claimant did not commit the crime or crimes for which the claimant was convicted and was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges or finding of not guilty on retrial."
3. **Straightforward process through courts to adjudicate claims:** Nationally, 22 of the 35 states with compensation laws adjudicate claims through courts: the state high court, circuit courts, district courts, trial courts or state civil court. While some states designate state claims boards or commissioners, or other state commissions to adjudicate claims these entities do not have the same experience in weighing evidence and assess claims as the courts. The courts are the appropriate entities to handle these claims.
4. **Offset provision with federal civil awards/settlements:** To protect taxpayers, several states require exonerees who receive state compensation and later win federal civil rights lawsuits/settlements, to reimburse the state. Conversely, exonerees who first win federal civil rights lawsuits and then file for state compensation would only be entitled to an amount of state compensation that is subtracted from the civil awards.

National Landscape

35 states + Federal government + Washington, DC have laws to compensate the wrongfully convicted

AL, CA, CO, CT, FL, HI, IA, IL, IN, KS, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NJ, NV, NY, OH, OK, TN, TX, UT, VA, VT, WA, WI, WV.

- I. **Monetary Compensation:** *Federal government, Washington, DC + 18 states provide at least \$50,000 per year of wrongful incarceration.*

More than \$50,000= 9 States

- Washington, DC- \$200,000
- NV- 1-10 years= \$50,000 per year of wrongful incarceration; 10-20 years= \$75,000 per year of wrongful incarceration; 20 or more years = \$100,000 per year of wrongful conviction
- TX- \$80,000
- CO- \$70,000
- KS-\$65,000
- OH- \$52,625.18



- CA- \$51,110
- CT- \$49,314-\$131,506
- VT- \$30,000-\$60,000

\$50,000= 10 States AL, FL, HI, IN, MI, MN, MS, NJ, NC, WA

II. Additional Compensation for Years on Death Row and/or Post-Release Supervision:
4 states +Federal Government

- **Federal:** Additional \$100,000 per year on death row.
- **CO:** \$50,000 additional compensation per year on death row; \$25,000 per year on parole, probation or sex offender registry.
- **MN:** \$25,000 per year on parole, probation or sex offender registry.
- **WA:** \$50,000 additional per year on death row, \$25,000 per year on parole, probation, sex offender registry.
- **KS:** \$25,000 per year for each additional year served on parole, post-release supervision or on sex offender registry.

III. Non-Monetary Services 19 states.

- **Tuition assistance:** 14 states (CO, CT, FL, KS, LA, MA, MN, MT, NC, NJ, NV, TX, VA, VT)
- **Medical expenses:** 9 states (CA, IL, KS, LA, MN, NJ, NV, TX, VT)
- **Job search assistance:** 7 states (CA, CT, LA, IL, NC, NJ, TX)
- **Housing assistance:** 3 states (CA, KS, NJ)
- **Counseling services:** 12 states: (CA, CT, IN, KS, LA, MA, NJ, NV, TX, VA, VT, WA)
- **Re-entry services:** 6 states: (CA, CT, IL, IN, NV, TX)
- **Immediate assistance upon exoneration:** 1 state (CA)

IV. Who decides? 21 states have courts adjudicate claims

- **Board of Claims:** 3 states (TN, NH, WI)
- **Board of Public Works:** 1 state MD
- **Victim Compensation Board and Board of Claims:** 1 state (CA)
- **Claims Commissioner:** 1 state (CT)
- **Comptroller's Judiciary Section:** 1 state (TX)
- **General Assembly:** 1 state (VA)
- **Industrial Commission:** 1 state (NC)
- **State Division of Risk Management and Committee on Compensation for Wrongful Incarceration:** 1 state (AL)
- **Criminal Justice Institute:** 1 state (IN)
- **Not specified:** 2 states (MT, NE)
- **Courts:** 21 states
 - **Circuit Court:** 2 states (HI, MS)
 - **Superior Court or County Supreme Court:** 5 states (MA, ME, NJ, VT, WA)
 - **Court of Claims:** 5 states (IL, MI, NY, WV, OH)
 - **District Court:** 5 states (CO, KS, NV, UT, IA)
 - **Sentencing court:** 1 state (MO)



- **State civil court:** 1 state (OK)
- **Trial court:** 2 states (FL, LA)
- **U.S. Court of Federal Claims:** Federal

V. Civil Offset Provisions: 5 States (CO, KS, NJ, NV, OH)

Five states have an offset provision for civil awards/settlements. The state is reimbursed if the exoneree first receives state compensation under the law, and then wins a civil lawsuit against the local government actors that is greater than the amount of state compensation. If exoneree first received a civil award/settlement stemming from the wrongful conviction, that amount would be deducted from any state compensation owed.