

House Engrossed

erroneous convictions; compensation

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HOUSE BILL 2813

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 35; RELATING TO CRIMINAL CONVICTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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 FOR A FELONY
8 CONVICTION FOR WHICH THE CLAIMANT WAS INCARCERATED IF ONE OF THE FOLLOWING
9 APPLIES:

10 1. THE CLAIMANT WAS PARDONED BASED ON INNOCENCE.

11 2. THE CLAIMANT'S JUDGMENT OF CONVICTION WAS REVERSED OR VACATED
12 AND THE CHARGES WERE DISMISSED OR THE CLAIMANT WAS FOUND NOT GUILTY ON
13 RETRIAL.

14 3. THE CLAIMANT'S JUDGMENT OF CONVICTION WAS REVERSED OR VACATED
15 AND THE CLAIMANT ENTERED A PLEA OF NO CONTEST, WHILE MAINTAINING A CLAIM
16 OF INNOCENCE, AFTER THE CONVICTION WAS OVERTURNED, REVERSED OR VACATED ON
17 DIRECT APPEAL OR POSTCONVICTION REVIEW WHEN THE CLAIMANT WOULD OTHERWISE
18 HAVE BEEN ENTITLED TO A NEW TRIAL.

19 B. ALL PLEADINGS SHALL BE ENTITLED "IN THE MATTER OF THE ERRONEOUS
20 CONVICTION OF ____". THE CLAIMANT SHALL SERVE THE ATTORNEY GENERAL WITH
21 A COPY OF THE CLAIM. THE COURT SHALL DECIDE THE CLAIM. THE ARIZONA RULES
22 OF CIVIL PROCEDURE APPLY. THE ACTION SHALL BE BROUGHT IN THE COUNTY OF
23 CONVICTION OR IN MARICOPA COUNTY.

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

26 1. THE CLAIMANT'S CONVICTION IS OVERTURNED OR VACATED AND THE
27 CHARGES AGAINST THE CLAIMANT ARE DISMISSED, THE CLAIMANT IS FOUND NOT
28 GUILTY ON RETRIAL OR THE CLAIMANT ENTERS A PLEA OF NO CONTEST, WHICHEVER
29 OCCURS LATER.

30 2. THE CLAIMANT IS PARDONED BASED ON INNOCENCE.

31 3. THE EFFECTIVE DATE OF THIS SECTION IF THE CLAIMANT WAS
32 CONVICTED, INCARCERATED AND RELEASED FROM CUSTODY BEFORE THE EFFECTIVE
33 DATE OF THIS SECTION.

34 D. THE ATTORNEY GENERAL SHALL RESPOND WITHIN THIRTY DAYS TO THE
35 CLAIM. THE ATTORNEY GENERAL MAY REQUEST A SINGLE THIRTY-DAY EXTENSION TO
36 RESPOND ON A SHOWING OF GOOD CAUSE. THE PARTIES MAY STIPULATE TO AN
37 ADDITIONAL EXTENSION OF TIME.

38 E. THE ATTORNEY GENERAL HAS THE BURDEN OF PROVING BY CLEAR AND
39 CONVINCING EVIDENCE THAT THE CLAIMANT IS NOT ENTITLED TO COMPENSATION
40 BECAUSE THE CLAIMANT EITHER:

41 1. COMMITTED THE OFFENSE FOR WHICH THE CLAIMANT WAS CONVICTED.

42 2. COMMITTED PERJURY, FABRICATED EVIDENCE OR BY THE CLAIMANT'S OWN
43 CONDUCT CAUSED OR BROUGHT ABOUT THE CONVICTION. A CONFESSION OR ADMISSION
44 LATER FOUND TO BE FALSE OR A GUILTY PLEA DOES NOT CONSTITUTE COMMITTING
45 PERJURY, FABRICATING EVIDENCE OR CAUSING OR BRINGING ABOUT THE CONVICTION.

1 F. IF THE ATTORNEY GENERAL DOES NOT OBJECT IN THE RESPONSE, THE
2 COURT SHALL ENTER AN ORDER GRANTING THE ERRONEOUS CONVICTION CLAIM. IF
3 THE ATTORNEY GENERAL OBJECTS, THE COURT SHALL ORDER AND HOLD AN
4 EVIDENTIARY HEARING. A COURT ORDER THAT GRANTS OR DENIES THE CLAIM SHALL
5 INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

6 G. IF THE COURT ENTERS AN ORDER GRANTING THE CLAIM, THE COURT SHALL
7 AWARD COMPENSATION AS FOLLOWS:

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

15 2. THE CLAIMANT MAY REQUEST MORE THAN THE AMOUNT OF COMPENSATION
16 AWARDED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION. IF THE CLAIMANT
17 REQUESTS ADDITIONAL COMPENSATION, THE COURT MUST HOLD AN EVIDENTIARY
18 HEARING. THE COURT SHALL CONSIDER THE PRO PER STATUS OF THE CLAIMANT IN
19 DETERMINING WHETHER ADDITIONAL COMPENSATION IS WARRANTED. THE CLAIMANT MAY
20 PRESENT THE FOLLOWING EVIDENCE:

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

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

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

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

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

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

38 H. COMPENSATION AWARDED TO THE CLAIMANT PURSUANT TO THIS SECTION
39 DOES NOT CONSTITUTE GROSS INCOME FOR THE PURPOSES OF TITLE 42 OR 43.

40 I. THE COURT SHALL ORDER THAT THE AWARD BE PAID IN ONE LUMP SUM TO
41 THE CLAIMANT.

42 J. IN ADDITION TO THE COMPENSATION AWARDED PURSUANT TO SUBSECTION G
43 OF THIS SECTION, THE CLAIMANT IS ENTITLED TO THE FOLLOWING SERVICES FROM
44 LICENSED OR ACCREDITED STATE INSTITUTIONS, AGENCIES OR PROVIDERS WITHIN
45 THIS STATE:

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

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

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

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

21 L. IF SUBSECTION K OF THIS SECTION DOES NOT APPLY, ANY FUTURE
22 DAMAGES THAT ARE AWARDED TO THE CLAIMANT RESULTING FROM AN ACTION BY THE
23 CLAIMANT AGAINST ANY UNIT OF GOVERNMENT IN THIS STATE BY REASON OF THE
24 ERRONEOUS CONVICTION SHALL BE OFFSET BY THE COMPENSATION AWARD RECEIVED
25 UNDER THIS SECTION.

26 M. THE COMPENSATION AWARD MAY NOT BE OFFSET BY ANY EXPENSES
27 INCURRED BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE,
28 INCLUDING THE FOLLOWING:

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

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

35 N. IF THE COURT FINDS THAT THE CLAIMANT IS ENTITLED TO
36 COMPENSATION, THE COURT SHALL ISSUE A FINDING THAT THE CLAIMANT WAS
37 ERRONEOUSLY CONVICTED AND, AS A RESULT, SERVED A SPECIFIC AMOUNT OF TIME
38 ERRONEOUSLY INCARCERATED. THE CLERK OF THE COURT SHALL SEND A CERTIFIED
39 COPY OF THE ORDER TO THE DEPARTMENT OF ADMINISTRATION'S RISK MANAGEMENT
40 REVOLVING FUND FOR PAYMENT FROM THE RISK MANAGEMENT REVOLVING FUND
41 ESTABLISHED PURSUANT TO SECTION 41-622. THE DEPARTMENT OF ADMINISTRATION
42 SHALL REMIT FROM THE RISK MANAGEMENT REVOLVING FUND THE PAYMENT TO THE
43 CLAIMANT WITHIN FORTY-FIVE DAYS. ANY CLAIMS FOR REIMBURSEMENT UNDER
44 SUBSECTION J OF THIS SECTION SHALL BE SUBMITTED TO THE ADMINISTRATION FOR
45 APPROVAL AND PAID FROM THE RISK MANAGEMENT REVOLVING FUND WITHIN FOURTEEN
46 DAYS AFTER RECEIPT.

1 O. NOTWITHSTANDING ANY OTHER LAW, ON ENTRY OF AN ERRONEOUS
2 CONVICTION RULING, THE COURT SHALL:

3 1. ORDER THE ASSOCIATED CONVICTIONS AND ARRESTS EXPUNGED FROM ALL
4 APPLICABLE STATE AND FEDERAL SYSTEMS AND THE RECORDS SEALED. THE COURT
5 SHALL ENTER THE EXPUNGEMENT ORDER REGARDLESS OF WHETHER THE CLAIMANT HAS A
6 HISTORICAL PRIOR FELONY CONVICTION. THE EXPUNGEMENT ORDER SHALL STATE ALL
7 OF THE FOLLOWING:

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

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

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

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

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

14 (f) THE IDENTITY OF THE ARRESTING LAW ENFORCEMENT AGENCY AND
15 CONVICTING COURT.

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

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

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

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

29 2. DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO EXPUNGE AND DESTROY
30 ANY BIOLOGICAL SAMPLES, INCLUDING DNA AND FINGERPRINT SAMPLES, RECEIVED BY
31 THE DEPARTMENT PURSUANT TO SECTION 13-610. THE CLERK OF THE COURT SHALL
32 SEND A CERTIFIED COPY OF THE ORDER TO THE DEPARTMENT OF PUBLIC SAFETY,
33 WHICH SHALL IMPLEMENT THE ORDER AND PROVIDE CONFIRMATION OF THE ACTION TO
34 THE COURT. THIS PARAGRAPH DOES NOT REQUIRE THE DEPARTMENT OF PUBLIC
35 SAFETY TO EXPUNGE AND DESTROY SAMPLES OR A PROFILE RECORD THAT IS
36 ASSOCIATED WITH THE CLAIMANT AND THAT RELATES TO AN UNRELATED OFFENSE.

37 P. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE
38 EXPUNGED RECORD FROM THE DEPARTMENT'S RECORDS AND SHALL INFORM ALL
39 APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT
40 AT NO COST TO THE CLAIMANT. THE STATE DEPARTMENT OF CORRECTIONS SHALL
41 SEAL AND SEPARATE THE EXPUNGED RECORD FROM THE DEPARTMENT'S RECORDS AND
42 MAY NOT MAKE INFORMATION RELATED TO THE EXPUNGED CONVICTION PUBLICLY
43 AVAILABLE THROUGH ANY DEPARTMENT DATABASE.

44 Q. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN
45 EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE CLAIMANT WAS
46 ERRONEOUSLY CONVICTED AND THAT THE ARREST, CHARGE, CONVICTION OR

1 ADJUDICATION AND SENTENCE ARE EXPUNGED AND MAY NOT MAKE ANY RECORDS OF THE
2 EXPUNGED ARREST, CHARGE, CONVICTION OR ADJUDICATION AND SENTENCE AVAILABLE
3 AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE CLAIMANT OR THE CLAIMANT'S
4 ATTORNEY.

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

12 S. THE CLAIMANT MAY REQUEST THAT THIS ACTION AND ERRONEOUS
13 CONVICTION RULING BE SEALED.

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

16 U. IF THE COURT DENIES AN ERRONEOUS CONVICTION CLAIM, THE CLAIMANT
17 MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A,
18 PARAGRAPH 3.

19 V. IF THE COURT FINDS THAT THE CLAIMANT IS ENTITLED TO A JUDGMENT,
20 A VICTIM AS DEFINED IN SECTION 13-4401 IS ENTITLED TO REIMBURSEMENT FOR
21 MENTAL HEALTH TREATMENT FOR UP TO FIFTY-TWO CLINICAL HOURS WITHIN TWELVE
22 MONTHS AFTER THE COURT'S ORDER AWARDING COMPENSATION AT A MAXIMUM OF \$250
23 PER HOUR PURSUANT TO THE VICTIM COMPENSATION AND ASSISTANCE FUND
24 ESTABLISHED BY SECTION 41-2407. THE VICTIM DOES NOT NEED TO ESTABLISH ANY
25 OTHER ELIGIBILITY REQUIREMENTS TO RECEIVE REIMBURSEMENT FOR MENTAL HEALTH
26 SERVICES.

27 Sec. 2. Legislative findings

28 The legislature finds that:

29 1. Innocent persons who have been erroneously convicted of crimes
30 have been uniquely victimized, have distinct struggles reentering society,
31 have difficulty achieving legal redress due to a variety of substantive
32 and technical obstacles in the law and should have an available avenue of
33 redress over and above the existing tort remedies to seek compensation for
34 damages.

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

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