

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0022.01 Richard Sweetman x4333

**HOUSE BILL 13-1230**

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**HOUSE SPONSORSHIP**

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**A BILL FOR AN ACT**

101     **CONCERNING COMPENSATION FOR PERSONS WHO ARE EXONERATED OF**  
102             **THEIR CRIMES AFTER A PERIOD OF INCARCERATION, AND, IN**  
103             **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

With certain limitations, the state shall compensate a person, or the immediate family members of a person, who has been:

- !       Wrongly convicted of a felony, or wrongly adjudicated a juvenile delinquent for the commission of an offense that

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

would be a felony if committed by a person 18 years of age or older;

- ! Incarcerated; and
- ! Exonerated and found to be actually innocent (an exonerated person).

The bill sets forth a judicial procedure whereby a person who is eligible to seek compensation from the state as an exonerated person, or the immediate family members of such a person, may petition a district court for an order declaring the person to be actually innocent and eligible to receive an order of compensation. Upon receipt of a petition, the attorney general and the district attorney shall each have 60 days to file a response in the district court. The response shall contain a statement that either:

- ! The petitioner is eligible to seek compensation; or
- ! The responding party contests the nature, significance, or effect of the evidence of actual innocence, the facts related to the petitioner's alleged wrongful conviction, or whether the petitioner is eligible to seek compensation.

If the responding party contests the actual innocence of the petitioner, the district court shall set the matter for a trial, at which trial the burden shall be on the petitioner to show by a preponderance of the evidence that he or she is actually innocent of all crimes that are the subject of the petition and that he or she is eligible to receive compensation.

An exonerated person shall be compensated by the state in the form of:

- ! Monetary compensation;
- ! Tuition waivers at state institutions of higher education;
- ! Compensation for child support payments owed by the exonerated person that became due during his or her incarceration, and interest on child support arrearages that accrued during his or her incarceration but which have not been paid;
- ! Reasonable attorneys' fees; and
- ! The amount of any fine, penalty, court costs, or restitution imposed upon and paid by the exonerated person as a result of his or her wrongful conviction or adjudication.

An exonerated person shall receive monetary compensation in an amount of \$70,000 for each year that he or she was incarcerated for the crime of which he or she has been exonerated. In addition to this amount, an exonerated person shall receive compensation in an amount of:

- ! \$50,000 for each year that he or she was incarcerated and awaiting execution; and
- ! \$25,000 for each year that he or she served on parole, on probation, or as a registered sex offender as a result of the

criminal offense of which he or she has been exonerated.

For a partial year of incarceration, an exonerated person shall receive a prorated amount that is based on the length of time that he or she was incarcerated.

The district court shall not issue to any person an order of compensation that includes any compensation for any period of incarceration during which the person was concurrently serving a sentence for an offense of which he or she has not been exonerated.

The district court shall reduce an exonerated person's award of monetary compensation if, prior to the issuance of such award:

- ! The exonerated person prevails in or settles a civil action against the state or against any other government body;
- ! The judgment rendered in the civil action or the settlement of the civil action includes an award of monetary damages to the exonerated person; and
- ! The award of monetary damages is intended to compensate the person for a period of incarceration that resulted from the person's wrongful conviction or adjudication of a crime.

Under such circumstances, the district court shall reduce the award by an amount that is equal to the amount of monetary damages that the person is awarded and collects in the civil action; except that, a district court shall not offset any amount exceeding the total amount of monetary compensation awarded to the exonerated person.

The state controller or his or her designee shall issue an annual payment to an exonerated person within 14 days after receiving an order of compensation from a district court and annually thereafter until the state's obligation is satisfied. An annual payment shall be \$100,000; except that, if the remaining amount owed to the exonerated person is less than \$100,000, then the annual payment shall be the remaining amount. The state controller shall issue annual payments from the compensation for exonerated persons fund, which fund is created in the bill.

After the state controller issues an initial annual payment to an exonerated person, the exonerated person must complete a personal financial management instruction course before the state controller may issue to the person another annual payment.

A district court that issues an order of compensation to the state controller on behalf of a person, or on behalf of the immediate family members of a person, shall order that all records relating to the person's wrongful conviction or adjudication shall be expunged as if such events had never taken place and such records had never existed. The district court shall direct such an expungement order to every person or agency that may have custody of any part of any records relating to the person's wrongful conviction or adjudication.

If a district court issues an expungement order, a court, law enforcement agency, or other state agency that maintains records relating

to the person's wrongful conviction or adjudication shall physically seal such records and thereafter treat the records as confidential. Records that have been sealed shall be made available to a court or a law enforcement agency, including but not limited to a district attorney's office or the attorney general, upon a showing of good cause.

On or before September 1, 2013, the Colorado commission on higher education shall implement a policy whereby each institution of higher education in the state shall waive tuition costs for an exonerated person, and for any child or custodial child of an exonerated person who was conceived or legally adopted before the exonerated person was incarcerated, who satisfies the admission requirements of the institution and who remains in satisfactory academic standing in accordance with the academic policies of the institution. To receive a tuition waiver, an exonerated person or child or custodial child of an exonerated person must apply to the institution and request such waiver in writing not later than 2 years after the later of the following dates:

- ! The date upon which a district court issued an order of compensation on behalf of the exonerated person; or
- ! In the case of a child or custodial child of an exonerated person, the date upon which the child or custodial child graduated from high school.

Neither an exonerated person nor a child or custodial child of an exonerated person shall be eligible for a tuition waiver unless the exonerated person was wrongfully incarcerated for at least 3 years.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds that an innocent person who has been wrongly convicted of  
4 a felony, or wrongly adjudicated a juvenile delinquent for the commission  
5 of an offense that would be a felony if committed by a person eighteen  
6 years of age or older, and subsequently incarcerated:

- 7 (a) Has been uniquely victimized;
- 8 (b) Has distinct problems reentering society;
- 9 (c) Has difficulty achieving legal redress due to a variety of  
10 substantive and technical obstacles in the law; and
- 11 (d) Should have an available means of redress beyond the existing

1 tort remedies to seek compensation for damages.

2 (2) Therefore, the general assembly declares that such a person  
3 shall receive certain compensation, including but not limited to monetary  
4 compensation, from the state as described in this act.

5 **SECTION 2.** In Colorado Revised Statutes, **add** article 65 to title  
6 13 as follows:

7 **ARTICLE 65**

8 **Compensation for Certain Exonerated Persons**

9 **13-65-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
10 CONTEXT OTHERWISE REQUIRES:

11 (1) (a) "ACTUAL INNOCENCE" MEANS A FINDING BY CLEAR AND  
12 CONVINCING EVIDENCE BY A DISTRICT COURT PURSUANT TO SECTION  
13 13-65-102 THAT A PERSON IS ACTUALLY INNOCENT OF A CRIME SUCH  
14 THAT:

15 (I) HIS OR HER CONVICTION WAS THE RESULT OF A MISCARRIAGE  
16 OF JUSTICE;

17 (II) HE OR SHE PRESENTED RELIABLE EVIDENCE THAT HE OR SHE  
18 WAS FACTUALLY INNOCENT OF ANY PARTICIPATION IN THE CRIME AT  
19 ISSUE;

20 (III) HE OR SHE DID NOT SOLICIT, PURSUANT TO 18-2-301, C.R.S.,  
21 THE COMMISSION OF THE CRIME AT ISSUE OR ANY CRIME FACTUALLY  
22 RELATED TO THE CRIME AT ISSUE;

23 (IV) HE OR SHE DID NOT CONSPIRE, PURSUANT TO 18-2-202,  
24 C.R.S., TO COMMIT THE CRIME AT ISSUE OR ANY CRIME FACTUALLY  
25 RELATED TO THE CRIME AT ISSUE;

26 (V) HE OR SHE DID NOT ACT AS A COMPLICITOR, PURSUANT TO  
27 18-1-603, C.R.S., IN THE COMMISSION OF THE CRIME AT ISSUE OR ANY

1 CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE;

2 (VI) HE OR SHE DID NOT ACT AS AN ACCESSORY, PURSUANT TO

3 18-8-105, C.R.S., IN THE COMMISSION OF THE CRIME AT ISSUE OR ANY

4 CRIME FACTUALLY RELATED TO THE CRIME AT ISSUE; AND

5 (VII) HE OR SHE DID NOT ATTEMPT TO COMMIT, PURSUANT TO

6 18-2-101, C.R.S., THE CRIME AT ISSUE OR ANY CRIME FACTUALLY

7 RELATED TO THE CRIME AT ISSUE.

8 (b) A COURT MAY NOT REACH A FINDING OF ACTUAL INNOCENCE

9 PURSUANT TO THIS SECTION MERELY:

10 (I) BECAUSE THE COURT FINDS THE EVIDENCE LEGALLY

11 INSUFFICIENT TO SUPPORT THE PETITIONER'S CONVICTION;

12 (II) BECAUSE THE COURT REVERSED OR VACATED THE

13 PETITIONER'S CONVICTION BECAUSE OF A LEGAL ERROR UNRELATED TO

14 THE PETITIONER'S ACTUAL INNOCENCE OR BECAUSE OF UNCORROBORATED

15 WITNESS RECANTATION ALONE; OR

16 (III) ON THE BASIS OF UNCORROBORATED WITNESS RECANTATION

17 ALONE.

18 (c) AS USED IN THIS SUBSECTION (1), "RELIABLE EVIDENCE" MAY

19 INCLUDE BUT IS NOT LIMITED TO EXCULPATORY SCIENTIFIC EVIDENCE,

20 TRUSTWORTHY EYEWITNESS ACCOUNTS, AND CRITICAL PHYSICAL

21 EVIDENCE.

22 (2) "CUSTODIAL CHILD" MEANS ANY INDIVIDUAL:

23 (a) WHO WAS CONCEIVED OR ADOPTED PRIOR TO THE DATE UPON

24 WHICH THE EXONERATED PERSON WAS INCARCERATED FOR THE ACT OR

25 OFFENSE THAT SERVED AS THE BASIS FOR HIS OR HER CONVICTION, WHICH

26 CONVICTION AND INCARCERATION IS THE SUBJECT OF HIS OR HER PETITION;

27 (b) WHOSE PRINCIPAL RESIDENCE IS THE HOME OF AN EXONERATED

1 PERSON;

2 (c) WHO RECEIVES MORE THAN HALF OF HIS OR HER FINANCIAL  
3 SUPPORT FROM THE EXONERATED PERSON EACH YEAR; AND

4 (d) WHO IS EITHER:

5 (I) LESS THAN NINETEEN YEARS OF AGE AT THE END OF THE  
6 CURRENT YEAR; OR

7 (II) LESS THAN TWENTY-FOUR YEARS OF AGE AT THE END OF THE  
8 CURRENT YEAR AND A FULL-TIME STUDENT.

9 (3) "EXONERATED PERSON" MEANS A PERSON WHO HAS BEEN  
10 DETERMINED BY A DISTRICT COURT PURSUANT TO SECTION 13-65-102 TO  
11 BE ACTUALLY INNOCENT.

12 (4) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, A PARENT, A  
13 CHILD, A GRANDPARENT, OR A SIBLING OF A DECEASED PERSON WHO  
14 WOULD BE ELIGIBLE FOR RELIEF PURSUANT TO SECTION 13-65-102 IF HE OR  
15 SHE WERE ALIVE. THE PROVISIONS OF ARTICLE 11 OF TITLE 15, C.R.S.,  
16 SHALL GOVERN WHICH IMMEDIATE FAMILY MEMBER OR MEMBERS HAVE  
17 PROPER STANDING TO ACT AS A PETITIONER.

18 (5) "INCARCERATION" MEANS A PERSON'S CUSTODY IN A COUNTY  
19 JAIL OR A CORRECTIONAL FACILITY WHILE HE OR SHE SERVES A SENTENCE  
20 ISSUED PURSUANT TO A FELONY CONVICTION IN THIS STATE OR PURSUANT  
21 TO THE PERSON'S ADJUDICATION AS A JUVENILE DELINQUENT FOR THE  
22 COMMISSION OF ONE OR MORE OFFENSES THAT WOULD BE FELONIES IF  
23 COMMITTED BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER. FOR THE  
24 PURPOSES OF THIS SECTION, "INCARCERATION" INCLUDES PLACEMENT AS  
25 A JUVENILE TO THE CUSTODY OF THE STATE DEPARTMENT OF HUMAN  
26 SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES PURSUANT TO  
27 SUCH AN ADJUDICATION.

1 (6) "ORDER OF COMPENSATION" MEANS AN ORDER OF  
2 COMPENSATION ISSUED TO THE STATE CONTROLLER ON BEHALF OF AN  
3 EXONERATED PERSON BY A DISTRICT COURT PURSUANT TO SECTION  
4 13-65-103.

5 (7) "PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE"  
6 MEANS A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE THAT  
7 HAS BEEN APPROVED BY THE UNITED STATES TRUSTEE'S OFFICE PURSUANT  
8 TO 11 U.S.C. SEC. 111.

9 (8) "PETITION" MEANS A PETITION FOR COMPENSATION BASED ON  
10 ACTUAL INNOCENCE FILED PURSUANT TO THE PROVISIONS OF SECTION  
11 13-65-102.

12 (9) "PETITIONER" MEANS A PERSON WHO PETITIONS FOR RELIEF  
13 PURSUANT TO SECTION 13-65-102. "PETITIONER" INCLUDES THE  
14 IMMEDIATE FAMILY MEMBERS OF A DECEASED PERSON WHO WOULD BE  
15 ELIGIBLE FOR RELIEF PURSUANT TO SECTION 13-65-102 IF HE OR SHE WERE  
16 ALIVE.

17 (10) "QUALIFIED HEALTH PLAN" MEANS A HEALTH PLAN THAT  
18 SATISFIES THE DEFINITION OF A QUALIFIED HEALTH PLAN SET FORTH IN THE  
19 FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", P.L.  
20 111-148, 42 U.S.C. 18021(a)(1).

21 (11) "STATE'S DUTY OF MONETARY COMPENSATION" MEANS THE  
22 TOTAL AMOUNT OF MONETARY COMPENSATION OWED BY THE STATE TO AN  
23 EXONERATED PERSON PURSUANT TO AN ORDER OF COMPENSATION ISSUED  
24 BY A DISTRICT COURT PURSUANT TO SECTION 13-65-103.

25 **13-65-102. Process for petitioning for compensation -**  
26 **eligibility to petition - actual innocence required - jurisdiction.**

27 (1) (a) NOTWITHSTANDING THE PROVISIONS OF ARTICLE 10 OF TITLE 24,



1 C.R.S., A PERSON WHO HAS BEEN CONVICTED OF A FELONY IN THIS STATE  
2 AND SENTENCED TO A TERM OF INCARCERATION AS A RESULT OF THAT  
3 CONVICTION AND HAS SERVED ALL OR PART OF SUCH SENTENCE, OR AN  
4 IMMEDIATE FAMILY MEMBER OF SUCH PERSON, MAY BE ELIGIBLE FOR  
5 COMPENSATION AS SET FORTH IN THIS ARTICLE UPON A FINDING THAT THE  
6 PERSON WAS ACTUALLY INNOCENT OF THE CRIME FOR WHICH HE OR SHE  
7 WAS CONVICTED.

8 (b) A PETITION FOR COMPENSATION BASED ON ACTUAL INNOCENCE  
9 FILED PURSUANT TO THIS SECTION IS A CIVIL CLAIM FOR RELIEF.

10 (2) A PETITION MAY BE FILED PURSUANT TO THIS SECTION ONLY:

11 (a) WHEN NO FURTHER CRIMINAL PROSECUTION OF THE PETITIONER  
12 FOR THE CRIMES CHARGED, OR FOR CRIMES ARISING FROM THE SAME  
13 CRIMINAL EPISODE IN THE CASE THAT IS THE SUBJECT OF THE PETITION,  
14 HAS BEEN INITIATED BY THE DISTRICT ATTORNEY OR THE ATTORNEY  
15 GENERAL AND SUBSEQUENT TO ONE OF THE FOLLOWING:

16 (I) A COURT VACATING OR REVERSING ALL CONVICTIONS IN THE  
17 CASE BASED ON REASONS OTHER THAN LEGAL INSUFFICIENCY OF EVIDENCE  
18 OR LEGAL ERROR UNRELATED TO THE PETITIONER'S ACTUAL INNOCENCE  
19 AND FOLLOWING AN ORDER OF DISMISSAL OF ALL CHARGES; OR

20 (II) A COURT VACATING OR REVERSING ALL CONVICTIONS IN THE  
21 CASE BASED ON REASONS OTHER THAN LEGAL INSUFFICIENCY OF EVIDENCE  
22 OR LEGAL ERROR UNRELATED TO THE PETITIONER'S ACTUAL INNOCENCE  
23 AND FOLLOWING AN ACQUITTAL OF ALL CHARGES AFTER RETRIAL; AND

24 (b) EITHER:

25 (I) IF THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF THIS  
26 SUBSECTION (2) ARE MET ON OR AFTER THE EFFECTIVE DATE OF THIS  
27 SECTION, NOT MORE THAN TWO YEARS AFTER SAID CONDITIONS ARE MET;

1 OR

2 (II) IF THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF THIS  
3 SUBSECTION (2) ARE MET BEFORE THE EFFECTIVE DATE OF THIS SECTION,  
4 NOT MORE THAN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

5 (3) THE DISTRICT COURT SHALL NOT ISSUE AN ORDER OF  
6 COMPENSATION TO A PETITIONER UNLESS, BASED ON EVIDENCE  
7 SUPPORTING THE PETITIONER'S ALLEGATION OF INNOCENCE, INCLUDING  
8 BUT NOT LIMITED TO AN ANALYSIS OF THE PERSON'S DNA PROFILE, THE  
9 COURT DETERMINES THAT THE PERSON IS ACTUALLY INNOCENT BECAUSE:

10 (a) THE PERSON COMMITTED NEITHER THE ACT OR OFFENSE THAT  
11 SERVED AS THE BASIS FOR THE CONVICTION AND INCARCERATION THAT IS  
12 THE SUBJECT OF THE PETITION, NOR ANY LESSER INCLUDED OFFENSE  
13 THEREOF; AND

14 (b) THE PERSON MEETS THE DEFINITION OF ACTUAL INNOCENCE IN  
15 SECTION 13-65-101 (1).

16 (4) (a) A PETITIONER IS NOT ELIGIBLE FOR COMPENSATION  
17 PURSUANT TO THIS ARTICLE IF:

18 (I) HE OR SHE DOES NOT MEET THE DEFINITION OF ACTUAL  
19 INNOCENCE IN SECTION 13-65-101 (1).

20 (II) HE OR SHE COMMITTED OR SUBORNED PERJURY DURING ANY  
21 PROCEEDINGS RELATED TO THE CASE THAT IS THE SUBJECT OF THE CLAIM;

22 OR

23 (III) TO AVOID PROSECUTION IN ANOTHER CASE FOR WHICH THE  
24 PETITIONER HAS NOT BEEN DETERMINED TO BE ACTUALLY INNOCENT, HE  
25 OR SHE PLED GUILTY IN THE CASE THAT SERVED AS THE BASIS FOR THE  
26 CONVICTION AND INCARCERATION THAT IS THE SUBJECT OF THE PETITION.

27 (b) NOTWITHSTANDING SUBPARAGRAPHS (I) TO (III) OF

1 PARAGRAPH (a) OF THIS SUBSECTION (4), CONDUCT DESCRIBED IN SAID  
2 SUBPARAGRAPHS SHALL NOT INCLUDE A CONFESSION OR AN ADMISSION  
3 THAT WAS LATER DETERMINED BY A COURT OF COMPETENT JURISDICTION,  
4 OR BY STIPULATION OF THE PARTIES, TO BE FALSE OR COERCED BY ANY  
5 GOVERNMENTAL AGENT.

6 (5) (a) A PETITIONER SHALL FILE HIS OR HER PETITION IN THE  
7 DISTRICT COURT IN THE COUNTY IN WHICH THE CASE ORIGINATED, TO THE  
8 DISTRICT COURT JUDGE WHO PRESIDED OVER THE ORIGINAL PROCEEDING  
9 IF SUCH JUDGE IS AVAILABLE; EXCEPT THAT, IF EITHER PARTY OBJECTS TO  
10 SUCH JUDGE PRESIDING OVER THIS CIVIL CLAIM FOR RELIEF, THEN  
11 ANOTHER DISTRICT JUDGE OF THE DISTRICT COURT SHALL PRESIDE OVER  
12 THE MATTER.

13 (b) THE PETITION SHALL NAME THE STATE OF COLORADO AS THE  
14 RESPONDENT. THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY OF  
15 THE JUDICIAL DISTRICT IN WHICH THE CASE ORIGINATED SHALL EACH HAVE  
16 A SEPARATE AND CONCURRENT AUTHORITY TO INTERVENE AS PARTIES TO  
17 A PETITION, AND A COPY OF THE PETITION SHALL BE SERVED ON THE  
18 ATTORNEY GENERAL AND THE DISTRICT ATTORNEY.

19 (c) A PETITION SHALL CONTAIN A RECITATION OF FACTS  
20 NECESSARY TO AN UNDERSTANDING OF THE PETITIONER'S CLAIM OF  
21 ACTUAL INNOCENCE. THE PETITION MAY BE SUPPORTED BY DNA  
22 EVIDENCE, IF APPLICABLE, EXPERT OPINION, PREVIOUSLY UNKNOWN OR  
23 UNAVAILABLE EVIDENCE, AND THE EXISTING COURT RECORD. THE  
24 PETITIONER SHALL ATTACH TO THE PETITION:

25 (I) A COPY OF ANY EXPERT REPORT RELIED UPON BY THE  
26 PETITIONER TO SUPPORT HIS OR HER CLAIM OF ACTUAL INNOCENCE;

27 (II) ANY DOCUMENTATION SUPPORTING THE RECITATION OF FACTS

1 IN THE CLAIM; █

2 (III) A RECORD FROM THE COUNTY JAIL, STATE CORRECTIONAL  
3 FACILITY, OR OTHER STATE FACILITY DOCUMENTING THE AMOUNT OF TIME  
4 THAT THE PETITIONER WAS INCARCERATED; AND

5 (IV) A SWORN AFFIDAVIT OF THE PETITIONER ASSERTING HIS OR  
6 HER ACTUAL INNOCENCE AS DEFINED IN SECTION 13-65-101 (1).

7 (d) UPON RECEIPT OF A PETITION, THE ATTORNEY GENERAL AND  
8 THE DISTRICT ATTORNEY SHALL EACH HAVE SIXTY DAYS TO FILE A  
9 RESPONSE IN THE DISTRICT COURT. A JOINT RESPONSE MAY BE FILED. THE  
10 COURT MAY GRANT THE RESPONDING PARTY, FOR GOOD CAUSE SHOWN, NO  
11 MORE THAN ONE EXTENSION OF TIME, NOT EXCEEDING FORTY-FIVE DAYS,  
12 IN WHICH TO FILE A RESPONSE. THE RESPONSE SHALL CONTAIN A  
13 STATEMENT THAT:

14 (I) BASED UPON THE PETITION AND VERIFIABLE AND SUBSTANTIAL  
15 EVIDENCE OF ACTUAL INNOCENCE, NO FURTHER CRIMINAL PROSECUTION  
16 OF THE PETITIONER FOR THE CRIMES CHARGED CAN OR WILL BE INITIATED  
17 BY THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL, THAT NO  
18 QUESTIONS OF FACT REMAIN AS TO THE PETITIONER'S ACTUAL INNOCENCE,  
19 AND THAT THE PETITIONER IS ELIGIBLE TO SEEK COMPENSATION UNDER  
20 THE PROVISIONS OF THIS SECTION; OR

21 (II) THE RESPONDING PARTY CONTESTS THE NATURE,  
22 SIGNIFICANCE, OR EFFECT OF THE EVIDENCE OF ACTUAL INNOCENCE, THE  
23 FACTS RELATED TO THE PETITIONER'S ALLEGED WRONGFUL CONVICTION,  
24 OR WHETHER THE PETITIONER IS ELIGIBLE TO SEEK COMPENSATION UNDER  
25 THE PROVISIONS OF THIS SECTION. THE RESPONSE SHALL INCLUDE A  
26 RECITATION OF FACTS NECESSARY TO AN UNDERSTANDING AS TO WHY THE  
27 PETITION IS BEING CONTESTED.

1 (e) IF THE RESPONDING PARTY CONTESTS THE ACTUAL INNOCENCE  
2 OF THE PETITIONER, THE DISTRICT COURT MAY ORDER THAT THE  
3 RESPONDING PARTY BE ALLOWED TO RETEST ANY EVIDENCE AT ISSUE IN  
4 THE CLAIM IF SUCH EVIDENCE REMAINS TO BE TESTED AND TESTING SUCH  
5 EVIDENCE WILL NOT CONSUME THE REMAINDER OF THE SAMPLE.

6 (f) (I) IF A PETITION IS CONTESTED, THE PETITIONER SHALL ENSURE  
7 THAT THE DISTRICT COURT HAS, OR HAS AVAILABLE, THE TRANSCRIPT  
8 FROM THE ORIGINAL TRIAL IF THE PETITIONER WAS CONVICTED AT TRIAL,  
9 THE POST-CONVICTION MOTION OR APPEAL THAT RESULTED IN A DISMISSAL  
10 OF THE CASE THAT IS THE SUBJECT OF THE PETITION AND THE TRANSCRIPT  
11 OF ANY HEARINGS ASSOCIATED WITH SUCH MOTION OR APPEAL; AND ANY  
12 OTHER PLEADINGS OR TRANSCRIPTS FROM PROCEEDINGS THAT THE  
13 PETITIONER SEEKS THE DISTRICT COURT TO CONSIDER.

14 (II) THE DISTRICT COURT SHALL USE ANY TRANSCRIPTS THAT ARE  
15 WITHIN THE COURT RECORDS FOR THE JUDICIAL DISTRICT OF ANY  
16 PROCEEDING INVOLVING THE CASE THAT IS THE SUBJECT OF THE PETITION  
17 THAT THE PETITIONER OR THE RESPONDENT WANTS THE DISTRICT COURT  
18 TO CONSIDER.

19 (g) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE  
20 COLORADO RULES OF CIVIL PROCEDURE SHALL APPLY TO PETITIONS FILED  
21 PURSUANT TO THIS SECTION. THE DISTRICT COURT MAY CONSIDER ANY  
22 RELEVANT EVIDENCE REGARDLESS OF WHETHER IT WAS ADMISSIBLE IN, OR  
23 EXCLUDED FROM, THE CRIMINAL TRIAL IN WHICH THE PETITIONER WAS  
24 CONVICTED. NO EVIDENCE SHALL BE EXCLUDED ON GROUNDS THAT IT WAS  
25 SEIZED OR OBTAINED IN VIOLATION OF THE UNITED STATES CONSTITUTION  
26 OR THE STATE CONSTITUTION. THE DISTRICT COURT MAY CONSIDER THE  
27 ONGOING INVESTIGATION AND PROSECUTION OF ANY OTHER INDIVIDUAL

1 FOR THE CRIMES COMMITTED WHEN DETERMINING THE TIMING AND SCOPE  
2 OF THE HEARING IF THE CLAIM IS UNCONTESTED OR THE TRIAL IF THE  
3 CLAIM IS CONTESTED.

4 (6) AS SOON AS PRACTICABLE GIVEN THE UNIQUE CIRCUMSTANCES  
5 OF CLAIMS FILED PURSUANT TO THIS SECTION, THE DISTRICT COURT SHALL  
6 ACT AS FOLLOWS:

7 (a) UPON RECEIPT OF AN UNCONTESTED RESPONSE TO A PETITION,  
8 THE DISTRICT COURT SHALL ISSUE A FINAL ORDER ON THE PETITION,  
9 FINDING THAT THE PETITIONER IS ACTUALLY INNOCENT AND ELIGIBLE FOR  
10 AN ORDER OF COMPENSATION. A FINAL ORDER ISSUED PURSUANT TO THIS  
11 PARAGRAPH (a) SHALL BE ACCOMPANIED BY AN ORDER OF COMPENSATION,  
12 TO BE ISSUED TO THE STATE CONTROLLER ON THE PETITIONER'S BEHALF  
13 PURSUANT TO SECTION 13-65-103.

14 (b) UPON RECEIPT OF A RESPONSE CONTESTING THE PETITIONER'S  
15 DECLARATION OF ACTUAL INNOCENCE OR HIS OR HER ELIGIBILITY FOR  
16 COMPENSATION REGARDLESS OF PETITIONER'S CLAIM OF ACTUAL  
17 INNOCENCE, OR BOTH, THE DISTRICT COURT SHALL SET THE MATTER FOR  
18 A TRIAL TO THE DISTRICT COURT OR, AT THE WRITTEN ELECTION OF EITHER  
19 PARTY, TO A TRIAL TO A JURY OF SIX, AT WHICH TRIAL THE BURDEN SHALL  
20 BE ON THE PETITIONER TO SHOW BY CLEAR AND CONVINCING EVIDENCE  
21 THAT HE OR SHE IS ACTUALLY INNOCENT OF ALL CRIMES THAT ARE THE  
22 SUBJECT OF THE PETITION, AND THAT HE OR SHE IS ELIGIBLE TO RECEIVE  
23 COMPENSATION PURSUANT TO THIS ARTICLE. A TRIAL TO A JURY OF SIX  
24 MUST RESULT IN A UNANIMOUS VERDICT. FOLLOWING A TRIAL TO THE  
25 DISTRICT COURT, THE COURT SHALL ISSUE A FINAL ORDER ON THE  
26 PETITION, WHICH ORDER SHALL INCLUDE FINDINGS OF FACT AS TO  
27 WHETHER THE PETITIONER HAS ESTABLISHED BY CLEAR AND CONVINCING

1 EVIDENCE THAT HE OR SHE IS ACTUALLY INNOCENT AND WHETHER THE  
2 PETITIONER IS ELIGIBLE FOR COMPENSATION UNDER THIS ARTICLE. IF THE  
3 COURT FINDS THAT THE PETITIONER IS ACTUALLY INNOCENT AND ELIGIBLE  
4 FOR COMPENSATION PURSUANT TO THIS ARTICLE, THE DISTRICT COURT  
5 SHALL ISSUE A FINAL ORDER ON THE PETITION WHICH ORDER SHALL STATE  
6 SUCH FINDINGS AND BE ACCOMPANIED BY AN ORDER OF COMPENSATION,  
7 TO BE ISSUED TO THE STATE CONTROLLER ON THE PETITIONER'S BEHALF  
8 PURSUANT TO SECTION 13-65-103. UPON A FINDING BY A JURY OF ACTUAL  
9 INNOCENCE, THE DISTRICT COURT SHALL ISSUE AN ORDER AWARDING THE  
10 PETITIONER COMPENSATION PURSUANT TO SECTION 13-65-103.

11 (7) (a) EITHER PARTY HAS A RIGHT TO AN APPEAL.

12 (b) IF THE PETITIONER APPEALS THE AMOUNT OF COMPENSATION  
13 AWARDED, THE STATE CONTROLLER SHALL NOT DELAY IN PAYING THE  
14 PETITIONER PURSUANT TO THE ORDER OF COMPENSATION WHILE THE  
15 APPEAL IS PENDING.

16 (c) IF THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY APPEALS  
17 THE OUTCOME OF THE TRIAL DESCRIBED IN SUBSECTION (6) OF THIS  
18 SECTION, THE STATE CONTROLLER SHALL NOT DELAY IN PAYING THE  
19 PETITIONER PURSUANT TO THE ORDER OF COMPENSATION WHILE THE  
20 APPEAL IS PENDING.

21 (d) IN THE EVENT THAT THE ATTORNEY GENERAL OR DISTRICT  
22 ATTORNEY PREVAILS IN AN APPEAL, THE COURT MAY TAKE SUCH ACTION  
23 AS IS NECESSARY TO RECOVER THE AMOUNT OF ANY COMPENSATION  
24 AWARDED TO THE PETITIONER PURSUANT TO SECTION 13-65-103.

25 **13-65-103. Orders of compensation for certain exonerated**  
26 **persons - monetary compensation - financial literacy training -**  
27 **penalty for lack of a qualified health plan - expungement of records**

1    **- damages awarded in civil actions.** (1) EXCEPT AS OTHERWISE  
2    PROVIDED IN THIS ARTICLE, A DISTRICT COURT SHALL ISSUE AN ORDER OF  
3    COMPENSATION TO THE STATE CONTROLLER ON BEHALF OF AN  
4    EXONERATED PERSON, OR ON BEHALF OF AN IMMEDIATE FAMILY MEMBER  
5    OF AN EXONERATED PERSON, WHO IS DETERMINED BY A DISTRICT COURT  
6    PURSUANT TO SECTION 13-65-102 TO BE ACTUALLY INNOCENT AND  
7    ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO THIS ARTICLE.

8           (2) A DISTRICT COURT THAT ISSUES AN ORDER OF COMPENSATION  
9    TO THE STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON, OR  
10   ON BEHALF OF ONE OR MORE IMMEDIATE FAMILY MEMBERS OF AN  
11   EXONERATED PERSON, PURSUANT TO THIS SECTION SHALL REDUCE THE  
12   ORDER TO WRITING AND INCLUDE WITHIN THE ORDER:

13           (a) THE EXONERATED PERSON'S NAME;

14           (b) THE DATE UPON WHICH THE ORDER IS ISSUED;

15           (c) THE FELONY OR FELONIES, IF ANY, OF WHICH THE EXONERATED  
16   PERSON HAS BEEN EXONERATED AND EACH CONVICTION OR ADJUDICATION  
17   OF THE EXONERATED PERSON, IF ANY, THAT HAS BEEN VACATED OR  
18   REVERSED;

19           (d) THE DATE UPON WHICH THE EXONERATED PERSON WAS  
20   CONVICTED OR ADJUDICATED AND THE DATES DURING WHICH THE  
21   EXONERATED PERSON WAS INCARCERATED AS A RESULT OF SUCH  
22   CONVICTION OR ADJUDICATION;

23           (e) A STATEMENT THAT THE EXONERATED PERSON, OR THE  
24   IMMEDIATE FAMILY MEMBER OF THE EXONERATED PERSON, IS ENTITLED  
25   TO COMPENSATION FROM THE STATE, WHICH COMPENSATION SHALL  
26   INCLUDE:

27           (I) AN AWARD OF MONETARY COMPENSATION, AS DESCRIBED IN



1 SUBSECTION (3) OF THIS SECTION;

2 (II) TUITION WAIVERS AT STATE INSTITUTIONS OF HIGHER  
3 EDUCATION FOR THE EXONERATED PERSON AND FOR ANY CHILDREN AND  
4 CUSTODIAL CHILDREN OF HIS OR HERS WHO WERE CONCEIVED OR LEGALLY  
5 ADOPTED BEFORE THE EXONERATED PERSON WAS INCARCERATED OR  
6 PLACED IN STATE CUSTODY FOR THE OFFENSE OF WHICH HE OR SHE HAS  
7 BEEN EXONERATED, AS DESCRIBED IN SECTION 23-1-132, C.R.S.; EXCEPT  
8 THAT:

9 (A) NO OTHER IMMEDIATE FAMILY MEMBERS OF THE EXONERATED  
10 PERSON SHALL BE ELIGIBLE FOR SUCH TUITION WAIVERS; AND

11 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
12 NEITHER AN EXONERATED PERSON NOR A CHILD OR CUSTODIAL CHILD OF  
13 AN EXONERATED PERSON SHALL BE ELIGIBLE FOR A TUITION WAIVER  
14 PURSUANT TO THIS SUBPARAGRAPH (II) UNLESS THE EXONERATED PERSON  
15 WAS WRONGFULLY INCARCERATED FOR AT LEAST THREE YEARS.

16 (III) COMPENSATION FOR CHILD SUPPORT PAYMENTS OWED BY THE  
17 EXONERATED PERSON THAT BECAME DUE DURING HIS OR HER  
18 INCARCERATION OR PLACEMENT IN STATE CUSTODY, AND INTEREST ON  
19 CHILD SUPPORT ARREARAGES THAT ACCRUED DURING HIS OR HER  
20 INCARCERATION OR PLACEMENT IN STATE CUSTODY BUT WHICH HAVE NOT  
21 BEEN PAID;

22 (IV) REASONABLE ATTORNEY FEES FOR BRINGING A CLAIM UNDER  
23 THIS SECTION; AND

24 (V) THE AMOUNT OF ANY FINE, PENALTY, COURT COSTS, OR  
25 RESTITUTION IMPOSED UPON AND PAID BY THE EXONERATED PERSON AS A  
26 RESULT OF HIS OR HER WRONGFUL CONVICTION OR ADJUDICATION. THIS  
27 SUBPARAGRAPH (V) SHALL NOT BE INTERPRETED TO REQUIRE THE

1 REIMBURSEMENT OF RESTITUTION PAYMENTS BY ANY PARTY TO WHOM  
2 THE EXONERATED PERSON MADE RESTITUTION PAYMENTS AS A RESULT OF  
3 HIS OR HER WRONGFUL CONVICTION OR ADJUDICATION.

4 (f) A STATEMENT NOTIFYING THE PERSON AND THE STATE  
5 CONTROLLER THAT, PURSUANT TO SECTION 24-30-209 (4), C.R.S., THE  
6 EXONERATED PERSON IS REQUIRED TO COMPLETE A PERSONAL FINANCIAL  
7 MANAGEMENT INSTRUCTION COURSE BEFORE THE STATE CONTROLLER  
8 MAY ISSUE TO THE EXONERATED PERSON MORE THAN ONE ANNUAL  
9 PAYMENT OF MONETARY COMPENSATION.

10 (g) A STATEMENT NOTIFYING THE EXONERATED PERSON AND THE  
11 STATE CONTROLLER THAT, PURSUANT TO SECTION 24-30-209 (5), C.R.S.,  
12 IN EACH YEAR IN WHICH AN EXONERATED PERSON RECEIVES ANY ANNUAL  
13 PAYMENT FROM THE STATE CONTROLLER, THE EXONERATED PERSON'S  
14 ANNUAL PAYMENT SHALL BE REDUCED BY TEN THOUSAND DOLLARS IF THE  
15 EXONERATED PERSON FAILS TO PRESENT TO THE STATE CONTROLLER A  
16 POLICY OR CERTIFICATE SHOWING THAT THE EXONERATED PERSON HAS  
17 PURCHASED OR OTHERWISE ACQUIRED A QUALIFIED HEALTH PLAN FOR  
18 HIMSELF OR HERSELF AND HIS OR HER DEPENDENTS THAT IS VALID FOR AT  
19 LEAST SIX MONTHS.

20 (3) (a) EXCEPT AS LIMITED BY THE PROVISIONS OF THIS ARTICLE,  
21 AN EXONERATED PERSON SHALL RECEIVE MONETARY COMPENSATION IN  
22 AN AMOUNT OF SEVENTY THOUSAND DOLLARS FOR EACH YEAR THAT HE OR  
23 SHE WAS INCARCERATED FOR THE FELONY OF WHICH HE OR SHE HAS BEEN  
24 EXONERATED. IN ADDITION TO THIS AMOUNT, AN EXONERATED PERSON  
25 SHALL RECEIVE COMPENSATION IN AN AMOUNT OF:

26 (I) FIFTY THOUSAND DOLLARS FOR EACH YEAR THAT HE OR SHE  
27 WAS INCARCERATED AND SENTENCED TO EXECUTION PURSUANT TO PART

1 12 OF ARTICLE 1.3 OF TITLE 18, C.R.S.; AND

2 (II) TWENTY-FIVE THOUSAND DOLLARS FOR EACH YEAR THAT HE  
3 OR SHE SERVED ON PAROLE, ON PROBATION, OR AS A REGISTERED SEX  
4 OFFENDER AFTER A PERIOD OF INCARCERATION AS A RESULT OF THE  
5 FELONY OF WHICH HE OR SHE HAS BEEN EXONERATED AND NOT FOR ANY  
6 OTHER CRIMINAL OFFENSE.

7 (b) EXCEPT AS LIMITED BY THE PROVISIONS OF THIS ARTICLE, IN  
8 ADDITION TO THE AMOUNT DESCRIBED IN PARAGRAPH (a) OF THIS  
9 SUBSECTION (3), AN EXONERATED PERSON SHALL RECEIVE COMPENSATION  
10 IN A PRORATED AMOUNT THAT IS PROPORTIONATE TO THE LENGTH OF:

11 (I) EACH PARTIAL YEAR THAT HE OR SHE WAS INCARCERATED OR  
12 PLACED IN STATE CUSTODY;

13 (II) EACH PARTIAL YEAR THAT HE OR SHE WAS INCARCERATED AND  
14 SENTENCED TO EXECUTION PURSUANT TO PART 12 OF ARTICLE 1.3 OF TITLE  
15 18, C.R.S.; AND

16 (III) EACH PARTIAL YEAR THAT HE OR SHE SERVED ON PAROLE, ON  
17 PROBATION, OR AS A REGISTERED SEX OFFENDER AFTER A PERIOD OF  
18 INCARCERATION AS A RESULT OF THE FELONY OF WHICH HE OR SHE HAS  
19 BEEN EXONERATED AND NOT FOR ANY OTHER CRIMINAL OFFENSE.

20 (4) A COURT THAT ISSUES AN ORDER OF COMPENSATION TO THE  
21 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON, OR ON  
22 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,  
23 SHALL SUBMIT COPIES OF THE ORDER TO:

24 (a) THE EXONERATED PERSON;

25 (b) THE STATE CONTROLLER;

26 (c) THE ATTORNEY GENERAL;

27 (d) THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH

1 THE CASE ORIGINATED;

2 (e) THE STATE DEPARTMENT OF CORRECTIONS;

3 (f) THE STATE DEPARTMENT OF LABOR AND EMPLOYMENT;

4 (g) THE STATE DEPARTMENT OF REVENUE; AND

5 (h) THE COLORADO COMMISSION ON HIGHER EDUCATION.

6 (5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE  
7 CONTRARY, A COURT SHALL NOT ISSUE TO ANY PERSON AN ORDER OF  
8 COMPENSATION THAT INCLUDES ANY COMPENSATION FOR ANY PERIOD OF  
9 INCARCERATION DURING WHICH THE PERSON WAS CONCURRENTLY  
10 SERVING A SENTENCE FOR AN OFFENSE OF WHICH HE OR SHE HAS NOT BEEN  
11 EXONERATED.

12 (6) THE AMOUNT OF MONETARY COMPENSATION AWARDED TO AN  
13 EXONERATED PERSON PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT  
14 TO:

15 (a) ANY CAP APPLICABLE TO PRIVATE PARTIES IN CIVIL LAWSUITS;

16 OR

17 (b) ANY STATE INCOME TAX, EXCEPT AS TO THOSE PORTIONS OF  
18 THE JUDGMENT AWARDED AS ATTORNEYS' FEES FOR BRINGING A CLAIM  
19 UNDER THIS SECTION AS DESCRIBED IN SECTION 39-22-104 (4) (p), C.R.S.

20 (7) (a) A COURT THAT ISSUES AN ORDER OF COMPENSATION TO THE  
21 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON OR ON  
22 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,  
23 SHALL ORDER ALL RECORDS RELATING TO THE EXONERATED PERSON'S  
24 WRONGFUL CONVICTION OR ADJUDICATION TO BE EXPUNGED AS IF SUCH  
25 EVENTS HAD NEVER TAKEN PLACE AND SUCH RECORDS HAD NEVER  
26 EXISTED. THE COURT SHALL DIRECT SUCH AN EXPUNGEMENT ORDER TO  
27 EVERY PERSON OR AGENCY THAT MAY HAVE CUSTODY OF ANY PART OF

1 ANY RECORDS RELATING TO THE EXONERATED PERSON'S WRONGFUL  
2 CONVICTION OR ADJUDICATION.

3 (b) IF A COURT ISSUES AN EXPUNGEMENT ORDER PURSUANT TO  
4 PARAGRAPH (a) OF THIS SUBSECTION (7), A COURT, LAW ENFORCEMENT  
5 AGENCY, OR OTHER STATE AGENCY THAT MAINTAINS RECORDS RELATING  
6 TO THE EXONERATED PERSON'S WRONGFUL CONVICTION OR ADJUDICATION  
7 SHALL PHYSICALLY SEAL SUCH RECORDS AND THEREAFTER TREAT THE  
8 RECORDS AS CONFIDENTIAL. RECORDS THAT HAVE BEEN SEALED  
9 PURSUANT TO THIS SUBSECTION (7) SHALL BE MADE AVAILABLE TO A  
10 COURT OR A LAW ENFORCEMENT AGENCY, INCLUDING BUT NOT LIMITED TO  
11 A DISTRICT ATTORNEY'S OFFICE OR THE ATTORNEY GENERAL, UPON A  
12 SHOWING OF GOOD CAUSE.

13 (8) (a) A COURT THAT ISSUES AN ORDER OF COMPENSATION TO THE  
14 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON OR ON  
15 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,  
16 SHALL REDUCE THE EXONERATED PERSON'S AWARD OF MONETARY  
17 COMPENSATION, AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION  
18 (8), IF, PRIOR TO THE ISSUANCE OF THE AWARD:

19 (I) THE EXONERATED PERSON PREVAILS IN OR SETTLES A CIVIL  
20 ACTION AGAINST THE STATE OR AGAINST ANY OTHER GOVERNMENT BODY  
21 IN A CIVIL ACTION CONCERNING THE SAME ACTS THAT ARE THE BASES FOR  
22 THE PETITION FOR COMPENSATION; AND

23 (II) THE JUDGMENT RENDERED IN THE CIVIL ACTION OR THE  
24 SETTLEMENT OF THE CIVIL ACTION INCLUDES AN AWARD OF MONETARY  
25 DAMAGES TO THE EXONERATED PERSON.

26

27 (b) UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (a) OF

1 THIS SUBSECTION (8), THE COURT SHALL REDUCE AN EXONERATED  
2 PERSON'S AWARD OF MONETARY COMPENSATION BY AN AMOUNT THAT IS  
3 EQUAL TO THE AMOUNT OF MONETARY DAMAGES THAT THE EXONERATED  
4 PERSON IS AWARDED AND COLLECTS IN THE CIVIL ACTION; EXCEPT THAT  
5 A COURT SHALL NOT OFFSET ANY AMOUNT EXCEEDING THE TOTAL  
6 AMOUNT OF MONETARY COMPENSATION AWARDED TO THE EXONERATED  
7 PERSON PURSUANT TO THIS SECTION.

8 (9) (a) EXCEPT WHEN PROCURED BY FRAUD, AN ORDER OF  
9 COMPENSATION ISSUED BY A COURT TO THE STATE CONTROLLER ON  
10 BEHALF OF A EXONERATED PERSON OR ON BEHALF OF AN IMMEDIATE  
11 FAMILY MEMBER OF AN EXONERATED PERSON, PURSUANT TO THIS  
12 SECTION, SHALL BE DEEMED A FINAL AND CONCLUSIVE DISPOSITION OF THE  
13 MATTER OF THE EXONERATED PERSON'S WRONGFUL INCARCERATION OR  
14 PLACEMENT IN STATE CUSTODY.

15 (b) AN ORDER OF COMPENSATION ISSUED BY A COURT TO THE  
16 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON OR ON  
17 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,  
18 PURSUANT TO THIS SECTION, SHALL NOT BE INTERPRETED TO LIMIT THE  
19 PERSON'S ABILITY TO PURSUE AN ACTION FOR DAMAGES AGAINST AN  
20 ENTITY THAT IS NOT AN EMPLOYEE, AGENT, OR AGENCY OF THE STATE  
21 GOVERNMENT.

22 **SECTION 3.** In Colorado Revised Statutes, **add** 24-30-209 as  
23 follows:

24 **24-30-209. Compensation for exonerated persons - definitions**  
25 **- annual payments - child support payments - financial literacy**  
26 **training - qualified health plan - fund - damages awarded in civil**  
27 **actions - reimbursement to the state.** (1) AS USED IN THIS SECTION,

1 UNLESS THE CONTEXT OTHERWISE REQUIRES:

2 (a) "ANNUAL PAYMENT" MEANS A PAYMENT OF MONETARY  
3 COMPENSATION MADE BY THE STATE CONTROLLER OR HIS OR HER  
4 DESIGNEE TO AN EXONERATED PERSON PURSUANT TO THIS SECTION. AN  
5 ANNUAL PAYMENT SHALL BE IN THE AMOUNT OF ONE HUNDRED THOUSAND  
6 DOLLARS, WHICH AMOUNT SHALL BE ADJUSTED ANNUALLY BY THE STATE  
7 AUDITOR TO ACCOUNT FOR INFLATION; EXCEPT THAT:

8 (I) IF THE REMAINING AMOUNT OF THE STATE'S DUTY OF  
9 MONETARY COMPENSATION OWED TO THE EXONERATED PERSON IS LESS  
10 THAN ONE HUNDRED THOUSAND DOLLARS, THE AMOUNT OF THE ANNUAL  
11 PAYMENT SHALL BE EQUAL TO THE REMAINING AMOUNT; AND

12 (II) THE AMOUNT OF AN ANNUAL PAYMENT MAY BE REDUCED AS  
13 DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

14 (b) "EXONERATED PERSON" MEANS A PERSON ON BEHALF OF WHOM  
15 A DISTRICT COURT HAS ISSUED TO THE STATE CONTROLLER AN ORDER OF  
16 COMPENSATION PURSUANT TO SECTION 16-17.5-101, C.R.S.

17 (c) "FUND" MEANS THE RISK MANAGEMENT FUND CREATED IN  
18 SECTION 24-30-1510.

19 (d) "INCARCERATION" MEANS A PERSON'S CUSTODY IN A COUNTY  
20 JAIL OR A CORRECTIONAL FACILITY WHILE HE OR SHE SERVES A SENTENCE  
21 ISSUED PURSUANT TO THE PERSON'S CONVICTION OF A FELONY OR  
22 PURSUANT TO THE PERSON'S ADJUDICATION AS A JUVENILE DELINQUENT  
23 FOR THE COMMISSION OF ONE OR MORE OFFENSES THAT WOULD BE  
24 FELONIES IF COMMITTED BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER.  
25 FOR THE PURPOSES OF THIS SECTION, "INCARCERATION" INCLUDES  
26 PLACEMENT AS A JUVENILE TO THE CUSTODY OF THE STATE DEPARTMENT  
27 OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES.

1           (e) "ORDER OF COMPENSATION" MEANS AN ORDER OF  
2 COMPENSATION ISSUED TO THE STATE CONTROLLER ON BEHALF OF AN  
3 EXONERATED PERSON BY A DISTRICT COURT PURSUANT TO SECTION  
4 16-17.5-101, C.R.S.

5           (f) "PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE"  
6 MEANS A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE THAT  
7 HAS BEEN APPROVED BY THE UNITED STATES TRUSTEE'S OFFICE PURSUANT  
8 TO 11 U.S.C. SEC. 111.

9           (g) "STATE'S DUTY OF MONETARY COMPENSATION" MEANS THE  
10 TOTAL AMOUNT OF MONETARY COMPENSATION OWED BY THE STATE TO AN  
11 EXONERATED PERSON PURSUANT TO AN ORDER OF COMPENSATION ISSUED  
12 BY A COURT PURSUANT TO SECTION 13-65-103, C.R.S., AND THE  
13 PROVISIONS OF THIS SECTION.

14           (2) NOT MORE THAN FOURTEEN DAYS AFTER THE STATE  
15 CONTROLLER RECEIVES AN ORDER OF COMPENSATION ON BEHALF OF AN  
16 EXONERATED PERSON FROM A COURT PURSUANT TO SECTION 13-65-103,  
17 C.R.S., THE STATE CONTROLLER OR HIS OR HER DESIGNEE SHALL:

18           (a) ISSUE AN ANNUAL PAYMENT FROM THE FUND TO THE  
19 EXONERATED PERSON. ANNUALLY THEREAFTER, ON OR BEFORE THE DATE  
20 THAT SUCH PAYMENT WAS MADE, UNTIL THE STATE'S DUTY OF MONETARY  
21 COMPENSATION IS SATISFIED, THE STATE CONTROLLER OR HIS OR HER  
22 DESIGNEE SHALL ISSUE AN ANNUAL PAYMENT FROM THE FUND TO THE  
23 EXONERATED PERSON.

24           (b) PAY ON THE EXONERATED PERSON'S BEHALF FROM THE FUND  
25 ANY AMOUNT OF COMPENSATION FOR CHILD SUPPORT PAYMENTS OWED BY  
26 THE EXONERATED PERSON THAT BECAME DUE DURING HIS OR HER  
27 INCARCERATION, OR ANY AMOUNT OF INTEREST ON CHILD SUPPORT



1 ARREARAGES THAT ACCRUED DURING HIS OR HER INCARCERATION BUT  
2 WHICH HAVE NOT BEEN PAID, AS DESCRIBED IN SECTION 13-65-103 (2) (e)  
3 (III), C.R.S. THE STATE CONTROLLER, OR HIS OR HER DESIGNEE, SHALL  
4 MAKE SUCH PAYMENT IN A LUMP SUM TO THE APPROPRIATE COUNTY  
5 DEPARTMENT OF SOCIAL SERVICES OR OTHER AGENCY RESPONSIBLE FOR  
6 RECEIVING SUCH PAYMENTS NOT MORE THAN THIRTY DAYS AFTER THE  
7 STATE CONTROLLER RECEIVES AN ORDER OF COMPENSATION ON BEHALF  
8 OF THE EXONERATED PERSON FROM A COURT PURSUANT TO SECTION  
9 13-65-103, C.R.S.

10 (c) PAY ON THE EXONERATED PERSON'S BEHALF FROM THE FUND  
11 THE AMOUNT OF REASONABLE ATTORNEY FEES AWARDED TO THE  
12 EXONERATED PERSON PURSUANT TO SECTION 13-65-103 (2) (e) (IV),  
13 C.R.S. █

14 (3) THE AMOUNT OF ANY PAYMENT MADE TO, OR ON BEHALF OF,  
15 AN EXONERATED PERSON PURSUANT TO THIS SECTION SHALL BE DEDUCTED  
16 FROM THE STATE'S DUTY OF MONETARY COMPENSATION TO THE  
17 EXONERATED PERSON.

18 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF  
19 SUBSECTION (2) OF THIS SECTION, AFTER THE STATE CONTROLLER HAS  
20 ISSUED ONE ANNUAL PAYMENT TO AN EXONERATED PERSON, THE STATE  
21 CONTROLLER SHALL NOT ISSUE ANOTHER ANNUAL PAYMENT TO THE  
22 EXONERATED PERSON UNTIL THE EXONERATED PERSON HAS COMPLETED  
23 A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE.

24 (5) IN EACH YEAR IN WHICH THE STATE CONTROLLER ISSUES AN  
25 ANNUAL PAYMENT TO AN EXONERATED PERSON, THE PERSON'S ANNUAL  
26 PAYMENT SHALL BE REDUCED BY TEN THOUSAND DOLLARS IF THE PERSON  
27 FAILS TO PRESENT TO THE STATE CONTROLLER A POLICY OR CERTIFICATE

1       SHOWING THAT THE PERSON HAS PURCHASED OR OTHERWISE ACQUIRED A  
2       QUALIFIED HEALTH PLAN FOR HIMSELF OR HERSELF AND HIS OR HER  
3       DEPENDENTS THAT IS VALID FOR AT LEAST SIX MONTHS. SUCH AMOUNT  
4       SHALL BE DEDUCTED FROM THE STATE'S DUTY OF MONETARY  
5       COMPENSATION TO THE EXONERATED PERSON AS IF SUCH AMOUNT HAD  
6       BEEN ISSUED TO THE EXONERATED PERSON.

7               (6) (a) AN EXONERATED PERSON WHO RECEIVES MONETARY  
8       COMPENSATION PURSUANT TO THIS SECTION SHALL REIMBURSE THE STATE  
9       FOR THE TOTAL AMOUNT OF ANNUAL PAYMENTS MADE TO THE  
10       EXONERATED PERSON PURSUANT TO THIS SECTION IF:

11               (I) THE EXONERATED PERSON PREVAILS IN OR SETTLES A CIVIL  
12       ACTION AGAINST THE STATE OR AGAINST ANY OTHER GOVERNMENT BODY  
13       IN A CIVIL ACTION CONCERNING THE SAME ACTS THAT ARE THE BASES FOR  
14       THE PETITION FOR COMPENSATION; AND

15               (II) THE JUDGMENT RENDERED IN THE CIVIL ACTION OR THE  
16       SETTLEMENT OF THE CIVIL ACTION INCLUDES AN AWARD OF MONETARY  
17       DAMAGES TO THE EXONERATED PERSON.

18               (b) FOR THE PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (6),  
19       IN ANY PROCEEDING THAT SATISFIES THE DESCRIPTION SET FORTH IN SAID  
20       PARAGRAPH (a), UPON A SATISFACTORY SHOWING BY THE STATE THAT THE  
21       EXONERATED PERSON HAS RECEIVED MONETARY COMPENSATION  
22       PURSUANT TO THIS SECTION, THE COURT SHALL OFFSET A SUFFICIENT  
23       AMOUNT OF MONEYS FROM THE EXONERATED PERSON'S AWARD OF  
24       MONETARY DAMAGES TO REIMBURSE THE STATE FOR SUCH MONETARY  
25       COMPENSATION. THE COURT SHALL TRANSFER SUCH MONEYS TO THE  
26       STATE CONTROLLER, WHO SHALL CREDIT THE MONEYS TO THE FUND.  
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(7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE STATE CONTROLLER SHALL NOT ISSUE AN ANNUAL PAYMENT TO AN EXONERATED PERSON IF:

(a) (I) THE EXONERATED PERSON HAS PREVAILED IN OR SETTLED A CIVIL ACTION FOR MONETARY DAMAGES AS DESCRIBED IN SUBSECTION (6) OF THIS SECTION; AND

(II) THE AMOUNT OF THE MONETARY DAMAGES AWARDED BY THE COURT IN THE CIVIL ACTION, OR STIPULATED IN THE SETTLEMENT OF THE ACTION, AND COLLECTED BY THE EXONERATED PERSON EQUALS OR EXCEEDS THE REMAINING AMOUNT OF THE STATE'S DUTY OF MONETARY COMPENSATION TO THE EXONERATED PERSON;

(b) THE EXONERATED PERSON IS CONVICTED OF A CLASS 1 OR CLASS 2 FELONY, OR OF AN OFFENSE THAT WOULD BE CONSIDERED A CLASS 1 OR CLASS 2 FELONY IN COLORADO, AFTER THE DATE UPON WHICH A COURT ISSUES AN ORDER OF COMPENSATION ON THE PERSON'S BEHALF; OR

(c) THE PERSON HAS NOT YET COMPLETED A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE, AS REQUIRED BY SUBSECTION (4) OF THIS SECTION.

**SECTION 4.** In Colorado Revised Statutes, 24-30-1510, **add** (3) (j) as follows:

**24-30-1510. Risk management fund - creation - authorized and unauthorized payments.** (3) Expenditures shall be made out of the risk management fund in accordance with subsection (1) of this section only for the following purposes:

(j) TO PROVIDE COMPENSATION FOR EXONERATED PERSONS, AS DESCRIBED IN SECTION 24-30-209.

1           **SECTION 5.** In Colorado Revised Statutes, **add** 23-1-132 as  
2 follows:

3           **23-1-132. Commission directive - tuition waivers for**  
4 **exonerated persons.** (1) ON OR BEFORE SEPTEMBER 1, 2013, THE  
5 COMMISSION SHALL IMPLEMENT A POLICY WHEREBY, EXCEPT AS LIMITED  
6 IN THIS SECTION, EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE  
7 SHALL WAIVE ALL TUITION COSTS, INCLUDING ANY MANDATORY FEES  
8 ASSOCIATED WITH ATTENDANCE AT THE INSTITUTION, FOR AN  
9 EXONERATED PERSON, AS DEFINED IN SECTION 13-65-101 (3), C.R.S., AND  
10 FOR ANY CHILD OF AN EXONERATED PERSON OR CUSTODIAL CHILD OF AN  
11 EXONERATED PERSON, AS DEFINED IN SECTION 13-65-101 (2), C.R.S., IF:

12           (a) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD  
13 OF THE EXONERATED PERSON, SATISFIES THE CRITERIA DESCRIBED IN  
14 SUBSECTION (2) OF THIS SECTION;

15           (b) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD  
16 OF THE EXONERATED PERSON, SATISFIES THE ADMISSION REQUIREMENTS  
17 OF THE INSTITUTION; AND

18           (c) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD  
19 OF THE EXONERATED PERSON, REMAINS IN SATISFACTORY ACADEMIC  
20 STANDING IN ACCORDANCE WITH THE ACADEMIC POLICIES OF THE  
21 INSTITUTION.

22           (2) TO RECEIVE A TUITION WAIVER FROM AN INSTITUTION OF  
23 HIGHER EDUCATION AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, AN  
24 EXONERATED PERSON OR CHILD OR CUSTODIAL CHILD OF AN EXONERATED  
25 PERSON SHALL APPLY TO THE INSTITUTION AND REQUEST SUCH WAIVER IN  
26 WRITING NOT LATER THAN TWO YEARS AFTER THE LATER OF THE  
27 FOLLOWING DATES:

1 (a) THE DATE UPON WHICH A COURT ISSUED TO THE STATE  
2 CONTROLLER AN ORDER OF COMPENSATION ON BEHALF OF THE  
3 EXONERATED PERSON PURSUANT TO SECTION 13-65-103, C.R.S.; OR

4 (b) IN THE CASE OF A CHILD OR CUSTODIAL CHILD OF AN  
5 EXONERATED PERSON, THE DATE UPON WHICH THE CHILD GRADUATED  
6 FROM HIGH SCHOOL.

7 (3) THE POLICY DESCRIBED IN SUBSECTION (1) OF THIS SECTION  
8 SHALL BE IMPLEMENTED BY ALL STATE-SUPPORTED INSTITUTIONS OF  
9 HIGHER EDUCATION, INCLUDING BUT NOT LIMITED TO ALL  
10 POSTSECONDARY INSTITUTIONS IN THE STATE SUPPORTED IN WHOLE OR IN  
11 PART BY STATE FUNDS, INCLUDING JUNIOR COLLEGES AND COMMUNITY  
12 COLLEGES, EXTENSION PROGRAMS OF THE STATE-SUPPORTED UNIVERSITIES  
13 AND COLLEGES, LOCAL DISTRICT COLLEGES, AND AREA VOCATIONAL  
14 SCHOOLS.

15 **SECTION 6.** In Colorado Revised Statutes, 39-22-104, **add** (4)  
16 (p) as follows:

17 **39-22-104. Income tax imposed on individuals, estates, and**  
18 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted  
19 from federal taxable income:

20 (p) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
21 1, 2013, AN AMOUNT EQUAL TO ANY AMOUNT RECEIVED PURSUANT TO AN  
22 ORDER OF COMPENSATION ISSUED BY A COURT ON BEHALF OF AN  
23 EXONERATED PERSON PURSUANT TO SECTION 13-65-103, C.R.S., ON OR  
24 AFTER JANUARY 1, 2014, EXCEPT AS TO THOSE PORTIONS OF THE  
25 JUDGMENT AWARDED AS ATTORNEY'S FEES FOR BRINGING A CLAIM UNDER  
26 SUCH SECTION.

27 **SECTION 7. Appropriation.** (1) In addition to any other

1 appropriation, there is hereby appropriated, out of any moneys in the  
2 general fund not otherwise appropriated, to the department of higher  
3 education, for the fiscal year beginning July 1, 2013, the sum of \$1,920,  
4 or so much thereof as may be necessary, to be allocated to the college  
5 opportunity fund program for stipends for students attending state  
6 institutions. Said sum is further reappropriated to the state board for  
7 community colleges and occupational education state system community  
8 colleges for the implementation of this act.

9 (2) In addition to any other appropriation, there is hereby  
10 appropriated, out of any moneys in the general fund not otherwise  
11 appropriated, to the department of law, for the fiscal year beginning July  
12 1, 2013, the sum of \$128,662 and 1.4 FTE, or so much thereof as may be  
13 necessary, to be allocated to the special prosecutions unit for the  
14 implementation of this act as follows:

- 15 (a) \$110,896 and 1.4 FTE for personal services;
- 16 (b) \$3,982 for travel and operating expenses; and
- 17 (c) \$13,784 for capital outlay expenses.

18 (3) In addition to any other appropriation, there is hereby  
19 appropriated, out of any moneys in the general fund not otherwise  
20 appropriated, to the department of personnel, for the fiscal year beginning  
21 July 1, 2013, the sum of \$100,000, or so much thereof as may be  
22 necessary, to be credited to the risk management fund created in section  
23 24-30-1510 (1), Colorado Revised Statutes, to provide compensation for  
24 exonerated persons as required to implement this act.

25 **SECTION 8. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety.