

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0022.01 Richard Sweetman x4333

HOUSE BILL 13-1230

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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.

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

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.

- 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.

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
12 tort remedies to seek compensation for damages.

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

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

6 **ARTICLE 65**

7 **Compensation for Certain Exonerated Persons**

8 **13-65-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "ACTUAL INNOCENCE" MEANS A FINDING BY A DISTRICT COURT
11 PURSUANT TO SECTION 13-65-102 THAT A PERSON IS ACTUALLY INNOCENT
12 OF THE ACT OR OFFENSE THAT SERVED AS THE BASIS FOR HIS OR HER
13 CONVICTION AND INCARCERATION, WHICH CONVICTION AND
14 INCARCERATION IS THE SUBJECT OF HIS OR HER PETITION.

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

16 (a) WHO WAS CONCEIVED OR ADOPTED PRIOR TO THE DATE UPON
17 WHICH THE EXONERATED PERSON WAS INCARCERATED FOR THE ACT OR
18 OFFENSE THAT SERVED AS THE BASIS FOR HIS OR HER CONVICTION, WHICH
19 CONVICTION AND INCARCERATION IS THE SUBJECT OF HIS OR HER PETITION;

20 (b) WHOSE PRINCIPAL RESIDENCE IS THE HOME OF AN EXONERATED
21 PERSON;

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

24 (d) WHO IS EITHER:

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

27 (II) LESS THAN TWENTY-FOUR YEARS OF AGE AT THE END OF THE

1 CURRENT YEAR AND A FULL-TIME STUDENT.

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

5 (4) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, A PARENT, A
6 CHILD, A CUSTODIAL CHILD, A GRANDPARENT, OR A SIBLING OF THE
7 EXONERATED PERSON.

8 (5) "INCARCERATION" MEANS A PERSON'S CUSTODY IN A COUNTY
9 JAIL OR A CORRECTIONAL FACILITY WHILE HE OR SHE SERVES A SENTENCE
10 ISSUED PURSUANT TO A FELONY CONVICTION IN THIS STATE OR PURSUANT
11 TO THE PERSON'S ADJUDICATION AS A JUVENILE DELINQUENT FOR THE
12 COMMISSION OF ONE OR MORE OFFENSES THAT WOULD BE FELONIES IF
13 COMMITTED BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER. FOR THE
14 PURPOSES OF THIS SECTION, "INCARCERATION" INCLUDES PLACEMENT AS
15 A JUVENILE TO THE CUSTODY OF THE STATE DEPARTMENT OF HUMAN
16 SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES PURSUANT TO
17 SUCH AN ADJUDICATION.

18 (6) "ORDER OF COMPENSATION" MEANS AN ORDER OF
19 COMPENSATION ISSUED TO THE STATE CONTROLLER ON BEHALF OF AN
20 EXONERATED PERSON BY A DISTRICT COURT PURSUANT TO SECTION
21 13-65-103.

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

26 (8) "PETITION" MEANS A PETITION FOR COMPENSATION BASED ON
27 ACTUAL INNOCENCE FILED PURSUANT TO THE PROVISIONS OF SECTION

1 13-65-102.

2 (9) "PETITIONER" MEANS A PERSON WHO PETITIONS FOR RELIEF
3 PURSUANT TO SECTION 13-65-102. "PETITIONER" INCLUDES THE
4 IMMEDIATE FAMILY MEMBERS OF A PERSON WHO IS ELIGIBLE FOR RELIEF
5 PURSUANT TO SECTION 13-65-102.

6 (10) "QUALIFIED HEALTH PLAN" MEANS A HEALTH PLAN THAT
7 SATISFIES THE DEFINITION OF A QUALIFIED HEALTH PLAN SET FORTH IN THE
8 FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", P.L.
9 111-148, 42 U.S.C. 18021(a)(1).

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

14 **13-65-102. Process for petitioning for compensation -**
15 **eligibility to petition - actual innocence required - jurisdiction.**

16 (1) (a) NOTWITHSTANDING THE PROVISIONS OF ARTICLE 10 OF TITLE 24,
17 C.R.S., A PERSON WHO HAS BEEN CONVICTED OF A FELONY IN THIS STATE
18 AND SENTENCED TO A TERM OF INCARCERATION AS A RESULT OF THAT
19 CONVICTION AND HAS SERVED ALL OR PART OF SUCH SENTENCE, OR AN
20 IMMEDIATE FAMILY MEMBER OF SUCH PERSON, MAY BE ELIGIBLE FOR
21 COMPENSATION AS SET FORTH IN THIS ARTICLE UPON A FINDING THAT THE
22 PERSON WAS ACTUALLY INNOCENT OF THE CRIME FOR WHICH HE OR SHE
23 WAS CONVICTED.

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

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

27 (a) WHEN NO FURTHER CRIMINAL PROSECUTION OF THE PETITIONER

1 FOR THE CRIMES CHARGED, OR FOR CRIMES ARISING FROM THE SAME
2 CRIMINAL EPISODE IN THE CASE THAT IS THE SUBJECT OF THE PETITION,
3 HAS BEEN INITIATED BY THE DISTRICT ATTORNEY OR THE ATTORNEY
4 GENERAL AND SUBSEQUENT TO ONE OF THE FOLLOWING:

5 (I) THE FILING OF A POST-CONVICTION MOTION OR APPEAL OF THE
6 CASE UPON WHICH THE PETITION IS BASED AND THE ISSUANCE OF AN
7 ORDER OF DISMISSAL OF ALL CHARGES IN SUCH CASE BY A COURT OF
8 COMPETENT JURISDICTION ON GROUNDS CONSISTENT WITH INNOCENCE; OR

9 (II) A COURT VACATING OR REVERSING ALL CONVICTIONS IN THE
10 CASE THAT IS THE SUBJECT OF THE PETITION AND A NEW TRIAL IN WHICH
11 THE PETITIONER IS FOUND NOT GUILTY OF ALL CHARGES THAT ARE THE
12 SUBJECT OF THE PETITION; AND

13 (b) EITHER:

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

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

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

26 (a) THE PERSON COMMITTED NEITHER THE ACT OR OFFENSE THAT
27 SERVED AS THE BASIS FOR THE CONVICTION AND INCARCERATION THAT IS

1 THE SUBJECT OF THE PETITION, NOR ANY LESSER INCLUDED OFFENSE
2 THEREOF; AND

3 (b) THE PERSON DID NOT AID, ABET, OR ACT AS AN ACCOMPLICE OR
4 ACCESSORY TO A PERSON WHO COMMITTED ANY ACT OR OFFENSE
5 REASONABLY CONNECTED TO THE FACTS OF THE CASE UPON WHICH THE
6 PETITION IS BASED.

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

9 (I) HE OR SHE AIDED, ABETTED, OR ACTED AS AN ACCOMPLICE TO
10 A PERSON WHO COMMITTED THE ACT OR OFFENSE THAT SERVED AS THE
11 BASIS FOR THE CONVICTION AND INCARCERATION THAT IS THE SUBJECT OF
12 THE PETITION;

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

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

20 (b) NOTWITHSTANDING SUBPARAGRAPHS (I) TO (III) OF
21 PARAGRAPH (a) OF THIS SUBSECTION (4), CONDUCT DESCRIBED IN SAID
22 SUBPARAGRAPHS SHALL NOT INCLUDE A CONFESSION OR AN ADMISSION
23 THAT WAS LATER DETERMINED BY A COURT OF COMPETENT JURISDICTION,
24 OR BY STIPULATION OF THE PARTIES, TO BE FALSE OR COERCED BY ANY
25 GOVERNMENTAL AGENT.

26 (5) (a) A PETITIONER SHALL FILE HIS OR HER PETITION IN THE
27 DISTRICT COURT IN THE COUNTY IN WHICH THE CASE ORIGINATED, TO THE

1 DISTRICT COURT JUDGE WHO PRESIDED OVER THE ORIGINAL PROCEEDING
2 IF SUCH JUDGE IS AVAILABLE; EXCEPT THAT, IF EITHER PARTY OBJECTS TO
3 SUCH JUDGE PRESIDING OVER THIS CIVIL CLAIM FOR RELIEF, THEN
4 ANOTHER DISTRICT JUDGE OF THE DISTRICT COURT SHALL PRESIDE OVER
5 THE MATTER.

6 (b) THE PETITION SHALL NAME THE STATE OF COLORADO AS THE
7 RESPONDENT. THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY OF
8 THE JUDICIAL DISTRICT IN WHICH THE CASE ORIGINATED SHALL EACH HAVE
9 A SEPARATE AND CONCURRENT AUTHORITY TO INTERVENE AS PARTIES TO
10 A PETITION, AND A COPY OF THE PETITION SHALL BE SERVED ON THE
11 ATTORNEY GENERAL AND THE DISTRICT ATTORNEY.

12 (c) A PETITION SHALL CONTAIN A RECITATION OF FACTS
13 NECESSARY TO AN UNDERSTANDING OF THE PETITIONER'S CLAIM OF
14 ACTUAL INNOCENCE. THE PETITION MAY BE SUPPORTED BY DNA
15 EVIDENCE, IF APPLICABLE, EXPERT OPINION, PREVIOUSLY UNKNOWN OR
16 UNAVAILABLE EVIDENCE, AND THE EXISTING COURT RECORD. THE
17 PETITIONER SHALL ATTACH TO THE PETITION:

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

20 (II) ANY DOCUMENTATION SUPPORTING THE RECITATION OF FACTS
21 IN THE CLAIM; AND

22 (III) A RECORD FROM THE COUNTY JAIL, STATE CORRECTIONAL
23 FACILITY, OR OTHER STATE FACILITY DOCUMENTING THE AMOUNT OF TIME
24 THAT THE PETITIONER WAS INCARCERATED.

25 (d) UPON RECEIPT OF A PETITION, THE ATTORNEY GENERAL AND
26 THE DISTRICT ATTORNEY SHALL EACH HAVE SIXTY DAYS TO FILE A
27 RESPONSE IN THE DISTRICT COURT. A JOINT RESPONSE MAY BE FILED. THE

1 COURT MAY GRANT THE RESPONDING PARTY, FOR GOOD CAUSE SHOWN, NO
2 MORE THAN ONE EXTENSION OF TIME, NOT EXCEEDING FORTY-FIVE DAYS,
3 IN WHICH TO FILE A RESPONSE. THE RESPONSE SHALL CONTAIN A
4 STATEMENT THAT:

5 (I) BASED UPON THE PETITION AND VERIFIABLE AND SUBSTANTIAL
6 EVIDENCE OF ACTUAL INNOCENCE, NO FURTHER CRIMINAL PROSECUTION
7 OF THE PETITIONER FOR THE CRIMES CHARGED CAN OR WILL BE INITIATED
8 BY THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL, THAT NO
9 QUESTIONS OF FACT REMAIN AS TO THE PETITIONER'S ACTUAL INNOCENCE,
10 AND THAT THE PETITIONER IS ELIGIBLE TO SEEK COMPENSATION UNDER
11 THE PROVISIONS OF THIS SECTION; OR

12 (II) THE RESPONDING PARTY CONTESTS THE NATURE,
13 SIGNIFICANCE, OR EFFECT OF THE EVIDENCE OF ACTUAL INNOCENCE, THE
14 FACTS RELATED TO THE PETITIONER'S ALLEGED WRONGFUL CONVICTION,
15 OR WHETHER THE PETITIONER IS ELIGIBLE TO SEEK COMPENSATION UNDER
16 THE PROVISIONS OF THIS SECTION. THE RESPONSE SHALL INCLUDE A
17 RECITATION OF FACTS NECESSARY TO AN UNDERSTANDING AS TO WHY THE
18 PETITION IS BEING CONTESTED.

19 (e) IF THE RESPONDING PARTY CONTESTS THE ACTUAL INNOCENCE
20 OF THE PETITIONER, THE DISTRICT COURT MAY ORDER THAT THE
21 RESPONDING PARTY BE ALLOWED TO RETEST ANY EVIDENCE AT ISSUE IN
22 THE CLAIM IF SUCH EVIDENCE REMAINS TO BE TESTED AND TESTING SUCH
23 EVIDENCE WILL NOT CONSUME THE REMAINDER OF THE SAMPLE.

24 (f) (I) IF A PETITION IS CONTESTED, THE PETITIONER SHALL ENSURE
25 THAT THE DISTRICT COURT HAS, OR HAS AVAILABLE, THE TRANSCRIPT
26 FROM THE ORIGINAL TRIAL IF THE PETITIONER WAS CONVICTED AT TRIAL,
27 THE POST-CONVICTION MOTION OR APPEAL THAT RESULTED IN A DISMISSAL

1 OF THE CASE THAT IS THE SUBJECT OF THE PETITION AND THE TRANSCRIPT
2 OF ANY HEARINGS ASSOCIATED WITH SUCH MOTION OR APPEAL; AND ANY
3 OTHER PLEADINGS OR TRANSCRIPTS FROM PROCEEDINGS THAT THE
4 PETITIONER SEEKS THE DISTRICT COURT TO CONSIDER.

5 (II) THE DISTRICT COURT SHALL USE ANY TRANSCRIPTS THAT ARE
6 WITHIN THE COURT RECORDS FOR THE JUDICIAL DISTRICT OF ANY
7 PROCEEDING INVOLVING THE CASE THAT IS THE SUBJECT OF THE PETITION
8 THAT THE PETITIONER OR THE RESPONDENT WANTS THE DISTRICT COURT
9 TO CONSIDER.

10 (g) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
11 COLORADO RULES OF CIVIL PROCEDURE SHALL APPLY TO PETITIONS FILED
12 PURSUANT TO THIS SECTION. THE DISTRICT COURT MAY CONSIDER ANY
13 RELEVANT EVIDENCE REGARDLESS OF WHETHER IT WAS ADMISSIBLE IN, OR
14 EXCLUDED FROM, THE CRIMINAL TRIAL IN WHICH THE PETITIONER WAS
15 CONVICTED. NO EVIDENCE SHALL BE EXCLUDED ON GROUNDS THAT IT WAS
16 SEIZED OR OBTAINED IN VIOLATION OF THE UNITED STATES CONSTITUTION
17 OR THE STATE CONSTITUTION. THE DISTRICT COURT MAY CONSIDER THE
18 ONGOING INVESTIGATION AND PROSECUTION OF ANY OTHER INDIVIDUAL
19 FOR THE CRIMES COMMITTED WHEN DETERMINING THE TIMING AND SCOPE
20 OF THE HEARING IF THE CLAIM IS UNCONTESTED OR THE TRIAL IF THE
21 CLAIM IS CONTESTED.

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

25 (a) UPON RECEIPT OF AN UNCONTESTED RESPONSE TO A PETITION,
26 THE DISTRICT COURT SHALL ISSUE A FINAL ORDER ON THE PETITION,
27 FINDING THAT THE PETITIONER IS ACTUALLY INNOCENT AND ELIGIBLE FOR

1 AN ORDER OF COMPENSATION. A FINAL ORDER ISSUED PURSUANT TO THIS
2 PARAGRAPH (a) SHALL BE ACCOMPANIED BY AN ORDER OF COMPENSATION,
3 TO BE ISSUED TO THE STATE CONTROLLER ON THE PETITIONER'S BEHALF
4 PURSUANT TO SECTION 13-65-103.

5 (b) UPON RECEIPT OF A RESPONSE CONTESTING THE PETITIONER'S
6 DECLARATION OF ACTUAL INNOCENCE OR HIS OR HER ELIGIBILITY FOR
7 COMPENSATION REGARDLESS OF PETITIONER'S CLAIM OF ACTUAL
8 INNOCENCE, OR BOTH, THE DISTRICT COURT SHALL SET THE MATTER FOR
9 A TRIAL TO THE DISTRICT COURT, AT WHICH TRIAL THE BURDEN SHALL BE
10 ON THE PETITIONER TO SHOW BY A PREPONDERANCE OF THE EVIDENCE
11 THAT HE OR SHE IS ACTUALLY INNOCENT OF ALL CRIMES THAT ARE THE
12 SUBJECT OF THE PETITION, AND THAT HE OR SHE IS ELIGIBLE TO RECEIVE
13 COMPENSATION PURSUANT TO THIS ARTICLE. FOLLOWING THE TRIAL, THE
14 DISTRICT COURT SHALL ISSUE A FINAL ORDER ON THE PETITION, WHICH
15 ORDER SHALL INCLUDE FINDINGS OF FACT AS TO WHETHER THE PETITIONER
16 HAS ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT HE OR
17 SHE IS ACTUALLY INNOCENT AND WHETHER THE PETITIONER IS ELIGIBLE
18 FOR COMPENSATION UNDER THIS ARTICLE. IF THE COURT FINDS THAT THE
19 PETITIONER IS ACTUALLY INNOCENT AND ELIGIBLE FOR COMPENSATION
20 PURSUANT TO THIS ARTICLE, THE DISTRICT COURT SHALL ISSUE A FINAL
21 ORDER ON THE PETITION WHICH ORDER SHALL STATE SUCH FINDINGS AND
22 BE ACCOMPANIED BY AN ORDER OF COMPENSATION, TO BE ISSUED TO THE
23 STATE CONTROLLER ON THE PETITIONER'S BEHALF PURSUANT TO SECTION
24 13-65-103.

25 (7) IF THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY APPEALS
26 THE OUTCOME OF THE TRIAL DESCRIBED IN SUBSECTION (6) OF THIS
27 SECTION, THE COURT SHALL NOT DELAY IN ISSUING AN ORDER OF

1 COMPENSATION TO THE STATE CONTROLLER ON THE PETITIONER'S BEHALF,
2 AS DESCRIBED IN SAID SUBSECTION (6), WHILE THE APPEAL IS PENDING. IN
3 THE EVENT THAT THE ATTORNEY GENERAL OR DISTRICT ATTORNEY
4 PREVAILS IN THE APPEAL, THE COURT MAY TAKE SUCH ACTION AS IS
5 NECESSARY TO RECOVER THE AMOUNT OF ANY COMPENSATION AWARDED
6 TO THE PETITIONER PURSUANT TO SECTION 13-65-103.

7 **13-65-103. Orders of compensation for certain exonerated**
8 **persons - monetary compensation - financial literacy training -**
9 **penalty for lack of a qualified health plan - expungement of records**
10 **- damages awarded in civil actions.** (1) EXCEPT AS OTHERWISE
11 PROVIDED IN THIS ARTICLE, A DISTRICT COURT SHALL ISSUE AN ORDER OF
12 COMPENSATION TO THE STATE CONTROLLER ON BEHALF OF AN
13 EXONERATED PERSON, OR ON BEHALF OF AN IMMEDIATE FAMILY MEMBER
14 OF AN EXONERATED PERSON, WHO IS DETERMINED BY A DISTRICT COURT
15 PURSUANT TO SECTION 13-65-102 TO BE ACTUALLY INNOCENT AND
16 ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO THIS ARTICLE.

17 (2) A DISTRICT COURT THAT ISSUES AN ORDER OF COMPENSATION
18 TO THE STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON, OR
19 ON BEHALF OF ONE OR MORE IMMEDIATE FAMILY MEMBERS OF AN
20 EXONERATED PERSON, PURSUANT TO THIS SECTION SHALL REDUCE THE
21 ORDER TO WRITING AND INCLUDE WITHIN THE ORDER:

- 22 (a) THE EXONERATED PERSON'S NAME;
- 23 (b) THE DATE UPON WHICH THE ORDER IS ISSUED;
- 24 (c) THE FELONY OR FELONIES, IF ANY, OF WHICH THE EXONERATED
25 PERSON HAS BEEN EXONERATED AND EACH CONVICTION OR ADJUDICATION
26 OF THE EXONERATED PERSON, IF ANY, THAT HAS BEEN VACATED OR
27 REVERSED;

1 (d) THE DATE UPON WHICH THE EXONERATED PERSON WAS
2 CONVICTED OR ADJUDICATED AND THE DATES DURING WHICH THE
3 EXONERATED PERSON WAS INCARCERATED AS A RESULT OF SUCH
4 CONVICTION OR ADJUDICATION;

5 (e) A STATEMENT THAT THE EXONERATED PERSON, OR THE
6 IMMEDIATE FAMILY MEMBER OF THE EXONERATED PERSON, IS ENTITLED
7 TO COMPENSATION FROM THE STATE, WHICH COMPENSATION SHALL
8 INCLUDE:

9 (I) AN AWARD OF MONETARY COMPENSATION, AS DESCRIBED IN
10 SUBSECTION (3) OF THIS SECTION;

11 (II) TUITION WAIVERS AT STATE INSTITUTIONS OF HIGHER
12 EDUCATION FOR THE EXONERATED PERSON AND FOR ANY CHILDREN AND
13 CUSTODIAL CHILDREN OF HIS OR HERS WHO WERE CONCEIVED OR LEGALLY
14 ADOPTED BEFORE THE EXONERATED PERSON WAS INCARCERATED OR
15 PLACED IN STATE CUSTODY FOR THE OFFENSE OF WHICH HE OR SHE HAS
16 BEEN EXONERATED, AS DESCRIBED IN SECTION 23-1-132, C.R.S.; EXCEPT
17 THAT:

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

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

25 (III) COMPENSATION FOR CHILD SUPPORT PAYMENTS OWED BY THE
26 EXONERATED PERSON THAT BECAME DUE DURING HIS OR HER
27 INCARCERATION OR PLACEMENT IN STATE CUSTODY, AND INTEREST ON

1 CHILD SUPPORT ARREARAGES THAT ACCRUED DURING HIS OR HER
2 INCARCERATION OR PLACEMENT IN STATE CUSTODY BUT WHICH HAVE NOT
3 BEEN PAID;

4 (IV) REASONABLE ATTORNEY FEES FOR BRINGING A CLAIM UNDER
5 THIS SECTION; AND

6 (V) THE AMOUNT OF ANY FINE, PENALTY, COURT COSTS, OR
7 RESTITUTION IMPOSED UPON AND PAID BY THE EXONERATED PERSON AS A
8 RESULT OF HIS OR HER WRONGFUL CONVICTION OR ADJUDICATION. THIS
9 SUBPARAGRAPH (V) SHALL NOT BE INTERPRETED TO REQUIRE THE
10 REIMBURSEMENT OF RESTITUTION PAYMENTS BY ANY PARTY TO WHOM
11 THE EXONERATED PERSON MADE RESTITUTION PAYMENTS AS A RESULT OF
12 HIS OR HER WRONGFUL CONVICTION OR ADJUDICATION.

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

19 (g) A STATEMENT NOTIFYING THE EXONERATED PERSON AND THE
20 STATE CONTROLLER THAT, PURSUANT TO SECTION 24-30-209 (5), C.R.S.,
21 IN EACH YEAR IN WHICH AN EXONERATED PERSON RECEIVES ANY ANNUAL
22 PAYMENT FROM THE STATE CONTROLLER, THE EXONERATED PERSON'S
23 ANNUAL PAYMENT SHALL BE REDUCED BY TEN THOUSAND DOLLARS IF THE
24 EXONERATED PERSON FAILS TO PRESENT TO THE STATE CONTROLLER A
25 POLICY OR CERTIFICATE SHOWING THAT THE EXONERATED PERSON HAS
26 PURCHASED OR OTHERWISE ACQUIRED A QUALIFIED HEALTH PLAN FOR
27 HIMSELF OR HERSELF AND HIS OR HER DEPENDENTS THAT IS VALID FOR AT

1 LEAST SIX MONTHS.

2 (3) (a) EXCEPT AS LIMITED BY THE PROVISIONS OF THIS ARTICLE,
3 AN EXONERATED PERSON SHALL RECEIVE MONETARY COMPENSATION IN
4 AN AMOUNT OF SEVENTY THOUSAND DOLLARS FOR EACH YEAR THAT HE OR
5 SHE WAS INCARCERATED FOR THE FELONY OF WHICH HE OR SHE HAS BEEN
6 EXONERATED. IN ADDITION TO THIS AMOUNT, AN EXONERATED PERSON
7 SHALL RECEIVE COMPENSATION IN AN AMOUNT OF:

8 (I) FIFTY THOUSAND DOLLARS FOR EACH YEAR THAT HE OR SHE
9 WAS INCARCERATED AND SENTENCED TO EXECUTION PURSUANT TO PART
10 12 OF ARTICLE 1.3 OF TITLE 18, C.R.S.; AND

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

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

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

22 (II) EACH PARTIAL YEAR THAT HE OR SHE WAS INCARCERATED AND
23 SENTENCED TO EXECUTION PURSUANT TO PART 12 OF ARTICLE 1.3 OF TITLE
24 18, C.R.S.; AND

25 (III) EACH PARTIAL YEAR THAT HE OR SHE SERVED ON PAROLE, ON
26 PROBATION, OR AS A REGISTERED SEX OFFENDER AFTER A PERIOD OF
27 INCARCERATION AS A RESULT OF THE FELONY OF WHICH HE OR SHE HAS

1 BEEN EXONERATED AND NOT FOR ANY OTHER CRIMINAL OFFENSE.

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

6 (a) THE EXONERATED PERSON;

7 (b) THE STATE CONTROLLER;

8 (c) THE ATTORNEY GENERAL;

9 (d) THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH
10 THE CASE ORIGINATED;

11 (e) THE STATE DEPARTMENT OF CORRECTIONS;

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

13 (g) THE STATE DEPARTMENT OF REVENUE; AND

14 (h) THE COLORADO COMMISSION ON HIGHER EDUCATION.

15 (5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE
16 CONTRARY, A COURT SHALL NOT ISSUE TO ANY PERSON AN ORDER OF
17 COMPENSATION THAT INCLUDES ANY COMPENSATION FOR ANY PERIOD OF
18 INCARCERATION DURING WHICH THE PERSON WAS CONCURRENTLY
19 SERVING A SENTENCE FOR AN OFFENSE OF WHICH HE OR SHE HAS NOT BEEN
20 EXONERATED.

21 (6) THE AMOUNT OF MONETARY COMPENSATION AWARDED TO AN
22 EXONERATED PERSON PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT
23 TO:

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

25 OR

26 (b) ANY STATE INCOME TAX, EXCEPT AS TO THOSE PORTIONS OF
27 THE JUDGMENT AWARDED AS ATTORNEYS' FEES FOR BRINGING A CLAIM

1 UNDER THIS SECTION AS DESCRIBED IN SECTION 39-22-104 (4) (p), C.R.S.

2 (7) (a) A COURT THAT ISSUES AN ORDER OF COMPENSATION TO THE
3 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON OR ON
4 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,
5 SHALL ORDER ALL RECORDS RELATING TO THE EXONERATED PERSON'S
6 WRONGFUL CONVICTION OR ADJUDICATION TO BE EXPUNGED AS IF SUCH
7 EVENTS HAD NEVER TAKEN PLACE AND SUCH RECORDS HAD NEVER
8 EXISTED. THE COURT SHALL DIRECT SUCH AN EXPUNGEMENT ORDER TO
9 EVERY PERSON OR AGENCY THAT MAY HAVE CUSTODY OF ANY PART OF
10 ANY RECORDS RELATING TO THE EXONERATED PERSON'S WRONGFUL
11 CONVICTION OR ADJUDICATION.

12 (b) IF A COURT ISSUES AN EXPUNGEMENT ORDER PURSUANT TO
13 PARAGRAPH (a) OF THIS SUBSECTION (7), A COURT, LAW ENFORCEMENT
14 AGENCY, OR OTHER STATE AGENCY THAT MAINTAINS RECORDS RELATING
15 TO THE EXONERATED PERSON'S WRONGFUL CONVICTION OR ADJUDICATION
16 SHALL PHYSICALLY SEAL SUCH RECORDS AND THEREAFTER TREAT THE
17 RECORDS AS CONFIDENTIAL. RECORDS THAT HAVE BEEN SEALED
18 PURSUANT TO THIS SUBSECTION (7) SHALL BE MADE AVAILABLE TO A
19 COURT OR A LAW ENFORCEMENT AGENCY, INCLUDING BUT NOT LIMITED TO
20 A DISTRICT ATTORNEY'S OFFICE OR THE ATTORNEY GENERAL, UPON A
21 SHOWING OF GOOD CAUSE.

22 (8) (a) A COURT THAT ISSUES AN ORDER OF COMPENSATION TO THE
23 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON OR ON
24 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,
25 SHALL REDUCE THE EXONERATED PERSON'S AWARD OF MONETARY
26 COMPENSATION, AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION
27 (8), IF, PRIOR TO THE ISSUANCE OF THE AWARD:

1 (I) THE EXONERATED PERSON PREVAILS IN OR SETTLES A CIVIL
2 ACTION AGAINST THE STATE OR AGAINST ANY OTHER GOVERNMENT BODY;

3 (II) THE JUDGMENT RENDERED IN THE CIVIL ACTION OR THE
4 SETTLEMENT OF THE CIVIL ACTION INCLUDES AN AWARD OF MONETARY
5 DAMAGES TO THE EXONERATED PERSON; AND

6 (III) THE AWARD OF MONETARY DAMAGES IS INTENDED TO
7 COMPENSATE THE EXONERATED PERSON FOR A PERIOD OF INCARCERATION
8 OR PLACEMENT IN STATE CUSTODY THAT RESULTED FROM THE
9 EXONERATED PERSON'S WRONGFUL CONVICTION OR ADJUDICATION OF A
10 FELONY.

11 (b) UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (a) OF
12 THIS SUBSECTION (8), THE COURT SHALL REDUCE AN EXONERATED
13 PERSON'S AWARD OF MONETARY COMPENSATION BY AN AMOUNT THAT IS
14 EQUAL TO THE AMOUNT OF MONETARY DAMAGES THAT THE EXONERATED
15 PERSON IS AWARDED AND COLLECTS IN THE CIVIL ACTION; EXCEPT THAT
16 A COURT SHALL NOT OFFSET ANY AMOUNT EXCEEDING THE TOTAL
17 AMOUNT OF MONETARY COMPENSATION AWARDED TO THE EXONERATED
18 PERSON PURSUANT TO THIS SECTION.

19 (9) (a) EXCEPT WHEN PROCURED BY FRAUD, AN ORDER OF
20 COMPENSATION ISSUED BY A COURT TO THE STATE CONTROLLER ON
21 BEHALF OF A EXONERATED PERSON OR ON BEHALF OF AN IMMEDIATE
22 FAMILY MEMBER OF AN EXONERATED PERSON, PURSUANT TO THIS
23 SECTION, SHALL BE DEEMED A FINAL AND CONCLUSIVE DISPOSITION OF THE
24 MATTER OF THE EXONERATED PERSON'S WRONGFUL INCARCERATION OR
25 PLACEMENT IN STATE CUSTODY AND SHALL NOT BE SUBJECT TO APPELLATE
26 REVIEW.

27 (b) AN ORDER OF COMPENSATION ISSUED BY A COURT TO THE

1 STATE CONTROLLER ON BEHALF OF AN EXONERATED PERSON OR ON
2 BEHALF OF AN IMMEDIATE FAMILY MEMBER OF AN EXONERATED PERSON,
3 PURSUANT TO THIS SECTION, SHALL NOT BE INTERPRETED TO LIMIT THE
4 PERSON'S ABILITY TO PURSUE AN ACTION FOR DAMAGES AGAINST AN
5 ENTITY THAT IS NOT AN EMPLOYEE, AGENT, OR AGENCY OF THE STATE
6 GOVERNMENT.

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

9 **24-30-209. Compensation for exonerated persons - definitions**
10 **- annual payments - child support payments - financial literacy**
11 **training - qualified health plan - fund - damages awarded in civil**
12 **actions - reimbursement to the state.** (1) AS USED IN THIS SECTION,
13 UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

26 (b) "EXONERATED PERSON" MEANS A PERSON ON BEHALF OF WHOM
27 A DISTRICT COURT HAS ISSUED TO THE STATE CONTROLLER AN ORDER OF

1 COMPENSATION PURSUANT TO SECTION 16-17.5-101, C.R.S.

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

4 (d) "INCARCERATION" MEANS A PERSON'S CUSTODY IN A COUNTY
5 JAIL OR A CORRECTIONAL FACILITY WHILE HE OR SHE SERVES A SENTENCE
6 ISSUED PURSUANT TO THE PERSON'S CONVICTION OF A FELONY OR
7 PURSUANT TO THE PERSON'S ADJUDICATION AS A JUVENILE DELINQUENT
8 FOR THE COMMISSION OF ONE OR MORE OFFENSES THAT WOULD BE
9 FELONIES IF COMMITTED BY A PERSON EIGHTEEN YEARS OF AGE OR OLDER.
10 FOR THE PURPOSES OF THIS SECTION, "INCARCERATION" INCLUDES
11 PLACEMENT AS A JUVENILE TO THE CUSTODY OF THE STATE DEPARTMENT
12 OF HUMAN SERVICES OR A COUNTY DEPARTMENT OF SOCIAL SERVICES.

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

17 (f) "PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE"
18 MEANS A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE THAT
19 HAS BEEN APPROVED BY THE UNITED STATES TRUSTEE'S OFFICE PURSUANT
20 TO 11 U.S.C. SEC. 111.

21 (g) "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 COURT PURSUANT TO SECTION 13-65-103, C.R.S., AND THE
25 PROVISIONS OF THIS SECTION.

26 (2) NOT MORE THAN FOURTEEN DAYS AFTER THE STATE
27 CONTROLLER RECEIVES AN ORDER OF COMPENSATION ON BEHALF OF AN

1 EXONERATED PERSON FROM A COURT PURSUANT TO SECTION 13-65-103,
2 C.R.S., THE STATE CONTROLLER OR HIS OR HER DESIGNEE SHALL:

3 (a) ISSUE AN ANNUAL PAYMENT FROM THE FUND TO THE
4 EXONERATED PERSON. ANNUALLY THEREAFTER, ON OR BEFORE THE DATE
5 THAT SUCH PAYMENT WAS MADE, UNTIL THE STATE'S DUTY OF MONETARY
6 COMPENSATION IS SATISFIED, THE STATE CONTROLLER OR HIS OR HER
7 DESIGNEE SHALL ISSUE AN ANNUAL PAYMENT FROM THE FUND TO THE
8 EXONERATED PERSON.

9 (b) PAY ON THE EXONERATED PERSON'S BEHALF FROM THE FUND
10 ANY AMOUNT OF COMPENSATION FOR CHILD SUPPORT PAYMENTS OWED BY
11 THE EXONERATED PERSON THAT BECAME DUE DURING HIS OR HER
12 INCARCERATION, OR ANY AMOUNT OF INTEREST ON CHILD SUPPORT
13 ARREARAGES THAT ACCRUED DURING HIS OR HER INCARCERATION BUT
14 WHICH HAVE NOT BEEN PAID, AS DESCRIBED IN SECTION 13-65-103 (2) (e)
15 (III), C.R.S. THE STATE CONTROLLER, OR HIS OR HER DESIGNEE, SHALL
16 MAKE SUCH PAYMENT IN A LUMP SUM TO THE APPROPRIATE COUNTY
17 DEPARTMENT OF SOCIAL SERVICES OR OTHER AGENCY RESPONSIBLE FOR
18 RECEIVING SUCH PAYMENTS NOT MORE THAN THIRTY DAYS AFTER THE
19 STATE CONTROLLER RECEIVES AN ORDER OF COMPENSATION ON BEHALF
20 OF THE EXONERATED PERSON FROM A COURT PURSUANT TO SECTION
21 13-65-103, C.R.S.

22 (c) PAY ON THE EXONERATED PERSON'S BEHALF FROM THE FUND
23 THE AMOUNT OF REASONABLE ATTORNEY FEES AWARDED TO THE
24 EXONERATED PERSON PURSUANT TO SECTION 13-65-103 (2) (e) (IV),
25 C.R.S., WHICH AMOUNT SHALL BE DEDUCTED FROM THE STATE'S DUTY OF
26 MONETARY COMPENSATION TO THE PERSON BUT SHALL NOT REDUCE THE
27 AMOUNT OF THE FIRST ANNUAL PAYMENT MADE TO THE EXONERATED

1 PERSON.

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

6 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
7 SUBSECTION (2) OF THIS SECTION, AFTER THE STATE CONTROLLER HAS
8 ISSUED ONE ANNUAL PAYMENT TO AN EXONERATED PERSON, THE STATE
9 CONTROLLER SHALL NOT ISSUE ANOTHER ANNUAL PAYMENT TO THE
10 EXONERATED PERSON UNTIL THE EXONERATED PERSON HAS COMPLETED
11 A PERSONAL FINANCIAL MANAGEMENT INSTRUCTION COURSE.

12 (5) IN EACH YEAR IN WHICH THE STATE CONTROLLER ISSUES AN
13 ANNUAL PAYMENT TO AN EXONERATED PERSON, THE PERSON'S ANNUAL
14 PAYMENT SHALL BE REDUCED BY TEN THOUSAND DOLLARS IF THE PERSON
15 FAILS TO PRESENT TO THE STATE CONTROLLER A POLICY OR CERTIFICATE
16 SHOWING THAT THE PERSON HAS PURCHASED OR OTHERWISE ACQUIRED A
17 QUALIFIED HEALTH PLAN FOR HIMSELF OR HERSELF AND HIS OR HER
18 DEPENDENTS THAT IS VALID FOR AT LEAST SIX MONTHS. SUCH AMOUNT
19 SHALL BE DEDUCTED FROM THE STATE'S DUTY OF MONETARY
20 COMPENSATION TO THE EXONERATED PERSON AS IF SUCH AMOUNT HAD
21 BEEN ISSUED TO THE EXONERATED PERSON.

22 (6) (a) AN EXONERATED PERSON WHO RECEIVES MONETARY
23 COMPENSATION PURSUANT TO THIS SECTION SHALL REIMBURSE THE STATE
24 FOR THE TOTAL AMOUNT OF ANNUAL PAYMENTS MADE TO THE
25 EXONERATED PERSON PURSUANT TO THIS SECTION IF:

26 (I) THE EXONERATED PERSON PREVAILS IN OR SETTLES A CIVIL
27 ACTION AGAINST THE STATE OR AGAINST ANY OTHER GOVERNMENT BODY;

1 (II) THE JUDGMENT RENDERED IN THE CIVIL ACTION OR THE
2 SETTLEMENT OF THE CIVIL ACTION INCLUDES AN AWARD OF MONETARY
3 DAMAGES TO THE EXONERATED PERSON; AND

4 (III) THE AWARD OF MONETARY DAMAGES IS INTENDED TO
5 COMPENSATE THE PERSON FOR A PERIOD OF INCARCERATION OR
6 PLACEMENT IN STATE CUSTODY THAT RESULTED FROM THE PERSON'S
7 WRONGFUL CONVICTION OF A FELONY OR THE PERSON'S WRONGFUL
8 ADJUDICATION AS A JUVENILE DELINQUENT FOR THE COMMISSION OF AN
9 OFFENSE THAT WOULD BE A FELONY IF COMMITTED BY A PERSON EIGHTEEN
10 YEARS OF AGE OR OLDER.

11 (b) FOR THE PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (6),
12 IN ANY PROCEEDING THAT SATISFIES THE DESCRIPTION SET FORTH IN SAID
13 PARAGRAPH (a), UPON A SATISFACTORY SHOWING BY THE STATE THAT THE
14 EXONERATED PERSON HAS RECEIVED MONETARY COMPENSATION
15 PURSUANT TO THIS SECTION, THE COURT SHALL OFFSET A SUFFICIENT
16 AMOUNT OF MONEYS FROM THE EXONERATED PERSON'S AWARD OF
17 MONETARY DAMAGES TO REIMBURSE THE STATE FOR SUCH MONETARY
18 COMPENSATION. THE COURT SHALL TRANSFER SUCH MONEYS TO THE
19 STATE CONTROLLER, WHO SHALL CREDIT THE MONEYS TO THE FUND.

20 (c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (6),
21 AN EXONERATED PERSON IS NOT REQUIRED TO REIMBURSE THE STATE FOR
22 ANY AMOUNT EXCEEDING THE LESSER OF:

23 (I) THE TOTAL AMOUNT OF ANNUAL PAYMENTS MADE TO THE
24 EXONERATED PERSON PURSUANT TO THIS SECTION; OR

25 (II) THE TOTAL AMOUNT OF MONETARY DAMAGES COLLECTED BY
26 THE PERSON PURSUANT TO THE JUDGMENT RENDERED IN THE CIVIL
27 ACTION.

1 (7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE
2 STATE CONTROLLER SHALL NOT ISSUE AN ANNUAL PAYMENT TO AN
3 EXONERATED PERSON IF:

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

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

12 (b) THE EXONERATED PERSON IS CONVICTED OF A CLASS 1 OR
13 CLASS 2 FELONY, OR OF AN OFFENSE THAT WOULD BE CONSIDERED A CLASS
14 1 OR CLASS 2 FELONY IN COLORADO, AFTER THE DATE UPON WHICH A
15 COURT ISSUES AN ORDER OF COMPENSATION ON THE PERSON'S BEHALF; OR

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

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

21 **24-30-1510. Risk management fund - creation - authorized**
22 **and unauthorized payments.** (3) Expenditures shall be made out of the
23 risk management fund in accordance with subsection (1) of this section
24 only for the following purposes:

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

27 **SECTION 5.** In Colorado Revised Statutes, **add** 23-1-132 as

1 follows:

2 **23-1-132. Commission directive - tuition waivers for**

3 **exonerated persons.** (1) ON OR BEFORE SEPTEMBER 1, 2013, THE

4 COMMISSION SHALL IMPLEMENT A POLICY WHEREBY, EXCEPT AS LIMITED

5 IN THIS SECTION, EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE

6 SHALL WAIVE ALL TUITION COSTS, INCLUDING ANY MANDATORY FEES

7 ASSOCIATED WITH ATTENDANCE AT THE INSTITUTION, FOR AN

8 EXONERATED PERSON, AS DEFINED IN SECTION 13-65-101 (3), C.R.S., AND

9 FOR ANY CHILD OF AN EXONERATED PERSON OR CUSTODIAL CHILD OF AN

10 EXONERATED PERSON, AS DEFINED IN SECTION 13-65-101 (2), C.R.S., IF:

11 (a) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD

12 OF THE EXONERATED PERSON, SATISFIES THE CRITERIA DESCRIBED IN

13 SUBSECTION (2) OF THIS SECTION;

14 (b) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD

15 OF THE EXONERATED PERSON, SATISFIES THE ADMISSION REQUIREMENTS

16 OF THE INSTITUTION; AND

17 (c) THE EXONERATED PERSON, OR THE CHILD OR CUSTODIAL CHILD

18 OF THE EXONERATED PERSON, REMAINS IN SATISFACTORY ACADEMIC

19 STANDING IN ACCORDANCE WITH THE ACADEMIC POLICIES OF THE

20 INSTITUTION.

21 (2) TO RECEIVE A TUITION WAIVER FROM AN INSTITUTION OF

22 HIGHER EDUCATION AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, AN

23 EXONERATED PERSON OR CHILD OR CUSTODIAL CHILD OF AN EXONERATED

24 PERSON SHALL APPLY TO THE INSTITUTION AND REQUEST SUCH WAIVER IN

25 WRITING NOT LATER THAN TWO YEARS AFTER THE LATER OF THE

26 FOLLOWING DATES:

27 (a) THE DATE UPON WHICH A COURT ISSUED TO THE STATE

1 CONTROLLER AN ORDER OF COMPENSATION ON BEHALF OF THE
2 EXONERATED PERSON PURSUANT TO SECTION 13-65-103, C.R.S.; OR

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

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

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

16 **39-22-104. Income tax imposed on individuals, estates, and**
17 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
18 from federal taxable income:

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

26 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.