



**Colorado
Legislative
Council
Staff**

SB17-125

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0659
Prime Sponsor(s): Sen. Guzman
Rep. Pabon

Date: February 3, 2017
Bill Status: Senate Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: LUMP-SUM COMPENSATION FOR EXONERATED PERSONS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	See State Expenditures section.	
Appropriation Required: None.		
Future Year Impacts: Potential shift in the timing of state expenditures. See State Expenditures section.		

Summary of Legislation

This bill allows exonerated persons eligible to receive compensation from the state to receive a lump sum payment in lieu of annual payments at any point after at least one annual payment is made. Under the bill, the exonerated person must provide written notice to the State Court Administrator in the Judicial Department, the Governor, and the General Assembly of his or her intent to receive a lump sum payment. The exonerated person must submit documentation that he or she has completed a personal financial management course and that he or she has acquired and is committed to maintaining a qualified health insurance plan. Following the receipt of the required documentation, the state has up to one year to pay the lump sum payment.

Background

House Bill 13-1230 created a state compensation program for persons who are found actually innocent of felony crimes after serving time in jail, prison, or juvenile placement. To become eligible for state funds, the exonerated person, or his or her immediate family members, must submit a petition and supporting documentation to the district court in the county that heard the original case. If found actually innocent, the exonerated person is eligible to receive the following benefits:

- monetary compensation in the amount of \$70,000 for each year incarcerated, plus an additional \$25,000 for each year he or she served on parole and \$50,000 for each year he or she was incarcerated and awaited execution;
- tuition waivers at state institutions of higher education, if the exonerated person was incarcerated for at least three years;

- compensation for child support payments and associated interest owed by the exonerated person that were incurred during his or her incarceration;
- reasonable attorney fees; and
- the amount of any fine, penalty, court costs, or restitution imposed as a result of the exonerated person's wrongful conviction.

The law allows for prorated compensation and for reductions to be made for certain reasons. No payments are allowed if the exonerated person prevails in a civil action and is awarded monetary damages that equal or exceed the state's obligation, the exonerated person is convicted of a class 1 or class 2 felony after the court issues the order of compensation, or the person has not yet completed a personal financial management instruction course. Compensation is not subject to civil lawsuit caps or state income tax, although the portion awarded as attorney's fees are subject to taxation. The state court administrator within the Judicial Department administers annual payments.

The state is currently making annual payments to one exonerated person. The state's obligation in this case totals \$1,192,310 and the Judicial Department plans to expend \$110,124 in FY 2017-18. The current amount of the principal owed to the exonerated person is \$792,310.

State Expenditures

This bill does not change the amount of state expenditures, but it may shift the timing of payments to exonerated persons, now or in the future. Because the timing and amount of such a request is unknown, the fiscal note assumes that the Judicial Department will request additional appropriations through the annual budget process as necessary.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Governor Information Technology Judicial