

January 2022

Law and Justice Interim Committee
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COMMITTEE ISSUE: UPDATE ON HB 92 (2021)

Background

During the 2019-2020 interim, the Law and Justice Interim Committee (LJIC) [studied wrongful conviction compensation programs](#) as requested by House Joint Resolution 36 (2019). At the end of the interim, the LJIC requested [House Bill 92 \(HB 92\)](#) to create a compensation program for individuals who had been wrongfully convicted. After amending HB 92 several times, the Legislature enacted it, and the governor signed it into law. At its organizational meeting in June, current LJIC members requested an update on the bill and its implementation.

HB 92's Path Through the 2021 Legislature

After stops in four standing committees, various amendments, and several floor debates, HB 92 was transmitted to the governor in late April. Several days later, the governor returned it with more proposed amendments (known as an amendatory veto). Both chambers adopted those amendments, and in late May 2021, the governor signed HB 92 into law. See the table on page 2 for more detailed information about how various HB 92 provisions changed from the introduced to enacted versions.

Current Claims

As of the end of December 2021, at least one individual has filed a claim using the provisions of HB 92. According to a September 2021 filing in the 4th Judicial District and recent news reports, Cody Marble of Conrad filed a claim for compensation based on a 2002 conviction for a sexual intercourse without consent offense. As of January 7, 2022, the claim is still pending.

Sources and Resources

- House Bill No. 92
 - [List of bill actions and links to amendments and hearing recordings](#)
 - [Bill text as introduced](#)
 - [Bill text as enacted](#)
- Recent news coverage of wrongful compensation claims
 - ["Wrongly convicted man sues Missoula Co. under new law,"](#) NBC Montana, Nov. 17, 2021
 - ["Exonerated man files first claim for compensation under new law,"](#) Mike Dennison, KXLH.com, Dec. 3, 2021
 - [Marble claim](#) filed in 4th Judicial District, Missoula County

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Table: Comparison of Various HB 92 Provisions in Initial and Final Bill Versions

	HB 92 as Introduced	HB 92 as Enacted
Entity liable for damages	State only	State: 25% County of conviction: 75%
Damages	\$60,000 for each year of imprisonment \$25,000 for each year of community supervision or year on a sexual or violent offender registry	\$60,000 for each year of imprisonment \$25,000 for each year of community supervision or year on a sexual or violent offender registry
Specified funding source for state payments?	No	Yes, general fund for state portion
Other relief possible from a claim	nonmonetary relief (counseling, housing assistance, financial literacy assistance), litigation costs, tuition assistance, medical insurance, reentry services, transition assistance grant	Rental vouchers, litigation costs, tuition assistance, medical insurance, transition assistance grant
Court proceeding required to settle claim?	Yes, in district court	Yes, in district court
Burden of proof for claimant	Preponderance of the evidence (greater than 50% chance the claim is true)	Preponderance of the evidence (greater than 50% chance the claim is true)
Expungement procedure included in bill?	Yes	Yes
Handling of other remedies	Offset provision required deduction of other awards or repayment of damages	Claimant must waive all other remedies and causes of action or forms of relief against the state or other subdivisions
Termination date included?	No, law would remain effective until repealed by Legislature	Yes, law ends on June 30, 2023, absent further legislative action